CHAPTER 775

AN ACT relating to motor vehicles, motor cycles, and highway traffic, constituting chapter seventy-one of the consolidated laws

Became a law April 23, 1959, with the approval of the Governor. Passed, by a majority vote, three-fifths being present

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

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TITLE I

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Article 1. Words and phrases defined.

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§ 100. Definition of words and phrases. The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this article except where another definition is specifically provided in any title, article or section for application in such title, article or section:

§ 100-a. Access highway. Any highway providing access between a qualifying highway, as defined in section one hundred thirty-four-a of this article, and terminals, facilities for food, fuel, repairs, and rest and, in addition, for points of loading and unloading for household goods carriers as such highways are designated by the commissioner of transportation pursuant to section sixteen hundred twenty-seven of this chapter.

§ 100-b. Ambulance. Every motor vehicle designed, appropriately equipped and used for the purpose of carrying sick or injured persons by a person or entity registered or certified as an ambulance service by the department of health.

§ 100-c. Articulated bus. A two unit bus with a flexible coupling

connection between the units.

§ 100-d. Agricultural equipment. Every agricultural tractor, self-propelled implement of husbandry, and towed, mounted or semi-mounted implement of husbandry. "Implement of husbandry" shall mean a vehicle designed or adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry.

§ 101. Authorized emergency vehicle. Every ambulance, police vehicle or bicycle, correction vehicle, fire vehicle, civil defense emergency vehicle, emergency ambulance service vehicle, blood delivery vehicle, human organ delivery vehicle, county emergency medical services vehicle, environmental emergency response vehicle, sanitation patrol vehicle, hazardous materials emergency vehicle and ordnance disposal vehicle of the armed forces of the United States.

§ 101-a. Automobile transporter. Any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) motor vehicles.

§ 101-b. Boat transporter. Any vehicle combination designed and used specifically for the transport of boats.

§ 101-c. B-train assembly. A rigid frame extension attached to the rear frame of the first semitrailer, in a tractor-semitrailer-semitrailer combination of vehicles, which allows for a fifth wheel connection point for the second semitrailer.

§ 102. Bicycle. Every two or three wheeled device upon which a person or persons may ride, propelled by human power through a belt, a chain or

gears, with such wheels in a tandem or tricycle, except that it shall not include such a device having solid tires and intended for use only on a sidewalk by pre-teenage children.

§ 102-a. Bicycle lane. A portion of the roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicycles.

§ 102-b. Bicycle path. A path physically separated from motorized vehicle traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way and which is intended for the use of bicycles.

§ 102-c. Bicycle with electric assist. A bicycle which is no more than thirty-six inches wide and has an electric motor of less than seven hundred fifty watts, equipped with operable pedals, meeting the equipment and manufacturing requirements for bicycles adopted by the Consumer Product Safety Commission under 16 C.F.R. Part 1512.1 et seq. and meeting the requirements of one of the following three classes:

(a) "Class one bicycle with electric assist." A bicycle with electric assist having an electric motor that provides assistance only when the person operating such bicycle is pedaling, and that ceases to provide assistance when such bicycle reaches a speed of twenty miles per hour.

(b) "Class two bicycle with electric assist." A bicycle with electric assist having an electric motor that may be used exclusively to propel such bicycle, and that is not capable of providing assistance when such bicycle reaches a speed of twenty miles per hour.

(c) "Class three bicycle with electric assist." Solely within a city having a population of one million or more, a bicycle with electric assist having an electric motor that may be used exclusively to propel such bicycle, and that is not capable of providing assistance when such bicycle reaches a speed of twenty-five miles per hour.

§ 103. Bureau. The department of motor vehicles of this state acting directly or through its duly authorized officers and agents.

§ 104. Bus. Every motor vehicle having a seating capacity of fifteen or more passengers in addition to the driver and used for the transportation of persons.

§ 105. Business district. The territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings, which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

§ 105-a. Car carrier. A truck that is designed to carry one to three motor vehicles on a flat platform that slides or tilts to the ground to facilitate loading and unloading of such motor vehicles and to tow an additional motor vehicle behind it by the use of a wheel lift. For the purposes of this chapter, whenever such car carrier tows or carries a disabled, illegally parked or abandoned motor vehicle or a motor vehicle involved in an accident, such car carrier shall be deemed to be a tow truck and shall comply with all provisions of this chapter, and any other law, ordinance, order, rule and regulation, applicable to tow trucks.

§ 105-b. Certificate of registration. Any document or other indicia of registration, other than number plates or tags required to be affixed to such number plates or to the vehicle itself, in a form and name prescribed by the commissioner, which identifies the vehicle described thereon and indicates that such vehicle is registered pursuant to the provisions of this chapter.

§ 106. Circulatory roadway. The roadway within a circular intersection on which traffic travels in a counterclockwise direction around a central island.

§ 106-a. Civil defense emergency vehicle. Every communications vehicle and rescue vehicle owned by the state, a county, town, city or village and operated for civil defense purposes and equipped and marked as a civil defense emergency communications or rescue vehicle in compliance with the rules and regulations of the state civil defense commission.

§ 107. Classes of cities. (a) City of the first class. A city with a population of one hundred seventy-five thousand or more.

(b) City of the second class. A city with a population of fifty thousand and less than one hundred seventy-five thousand.

(c) City of the third class. Any city not included in the foregoing classes.

(d) The classification herein made shall be determined by the federal census or state enumeration, whichever is the later, as last previously taken before the effective date of this chapter.

§ 107-b. Commercial towing. The moving or removing of disabled, illegally parked, or abandoned motor vehicles or motor vehicles involved in accidents, by another motor vehicle, for which there is direct or indirect compensation. Commercial towing shall also include towing by a person, firm, corporation, or other entity pursuant to a contract or other agreement with a political subdivision.

§ 108. Commissioner. The commissioner of motor vehicles of this state.

§ 109. Controlled-access highway. Every highway, street, or roadway

in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

§ 109-a. Correction vehicle. Every vehicle operated in the city of New York by the New York city department of correction or the New York state department of corrections and community supervision while engaged in an emergency operation.

§ 109-b. County emergency medical services vehicle. Every vehicle operated by a county emergency medical services coordinator or deputy county emergency medical services coordinator appointed pursuant to the provisions of section two hundred twenty-three-b of the county law, when operated in an official capacity while engaged in an emergency operation.

§ 109-c. Conviction. Any conviction as defined in subdivision thirteen of section 1.20 of the criminal procedure law; provided, however, where a conviction or administrative finding in this state or another state results in a mandatory sanction against a commercial driver's license, as set forth in sections five hundred ten, five hundred ten-a, eleven hundred ninety-two and eleven hundred ninety-four of this chapter, conviction shall also mean an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

§ 110. Crosswalk. (a) That part of a roadway at an intersection

included within the connections of the lateral lines of the sidewalks on opposite sides of the highway between the curbs or, in the absence of curbs, between the edges of the traversable roadway.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

§ 111. Curb. A vertical or sloping member along the edge of a roadway clearly defining the pavement edge.

§ 112. Department. The department of motor vehicles of this state acting directly or through its duly authorized officers and agents.

§ 112-a. Department of transportation. The department of transportation of this state acting directly or through its duly authorized officers and agents.

§ 113. Driver. Every person who operates or drives or is in actual physical control of a vehicle. Whenever the terms "chauffeur" or "operator" or "chauffeur's license" or "operator's license" are used in this chapter, such terms shall be deemed to mean driver and driver's license respectively.

§ 114. Driveway. Every entrance or exit used by vehicular traffic to or from lands or buildings abutting a highway.

§ 114-a. Drug. The term "drug" when used in this chapter, means and includes any substance listed in section thirty-three hundred six of the public health law and cannabis and concentrated cannabis as defined in section 222.00 of the penal law.

§ 114-b. Emergency operation. The operation, or parking, of an authorized emergency vehicle, when such vehicle is engaged in transporting a sick or injured person, transporting prisoners, delivering blood or blood products in a situation involving an imminent health risk, transporting human organs and/or medical personnel for the purpose of organ recovery or transplantation in a situation involving an imminent health risk where undue delay would jeopardize such recovery or transplantation, pursuing an actual or suspected violator of the law, or responding to, or working or assisting at the scene of an accident, disaster, police call, alarm of fire, actual or potential release of hazardous materials or other emergency. Emergency operation shall not include returning from such service.

§ 114-c. Escort vehicle. A motor vehicle which operates under its own power and which precedes or follows a vehicle or combination of vehicles that has been issued a special hauling permit by the department of transportation, a municipality or public authority pursuant to section three hundred eighty-five of this chapter.

§ 114-d. Electric personal assistive mobility device. Every self-balancing, two non-tandem wheeled device designed to transport one person by means of an electric propulsion system with an average output of not more than seven hundred fifty watts (one horsepower), and the maximum speed of which on a paved level surface, when propelled solely by its electric propulsion system while ridden by an operator weighing one hundred seventy pounds, is less than twelve and one-half miles per hour.

§ 114-e. Electric scooter. Every device weighing less than one hundred pounds that (a) has handlebars, a floorboard or a seat that can be stood or sat upon by the operator, and an electric motor, (b) can be powered by the electric motor and/or human power, and (c) has a maximum speed of no more than twenty miles per hour on a paved level surface when powered

solely by the electric motor.

§ 115. Explosives. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

§ 115-a. Fire vehicle. Every vehicle operated for fire service purposes owned and identified as being owned by the state, a public authority, a county, town, city, village or fire district, or a fire corporation subject to the provisions of subdivision (e) of section fourteen hundred two of the not-for-profit corporation law or a fire company as defined in section one hundred of the general municipal law. Any of the following vehicles shall be fire vehicles only for the purpose of section one hundred one of this chapter: 1. a vehicle operated by officials of the office of fire prevention and control,

2. a vehicle ordinarily operated by a chief or assistant chief of a fire department, or a county or deputy county fire coordinator, or county or assistant county fire marshall, or town or assistant town fire coordinator, or such vehicle when operated in an official capacity by or under the direction of such person, and

3. a vehicle specially designed and equipped for firefighting purposes which is regularly used for firefighting purposes by a firefighting unit on property used for industrial, institutional or commercial purposes and which vehicle is owned by the owner or lessee of such property.

§ 115-b. Flagperson. The term "flagperson," when used in this chapter

means and includes:

1. Any person employed by or on behalf of the state, a county, city, town or village, a public authority, a local authority, or a public utility company, or the agent or contractor of any such entity, who has been assigned to control or direct traffic on public highways in connection with any construction, survey, and/or maintenance work being performed.

2. Any person employed by or on behalf of a railroad corporation who has been assigned to control or direct traffic at a railroad grade crossing.

3. Any person holding a certificate issued by the commissioner, which authorizes such person to operate an escort vehicle, and who has been assigned to control, warn, or direct traffic in connection with the movement of an escort vehicle on a public highway.

§ 115-c. Emergency ambulance service vehicle. An emergency ambulance service vehicle shall be defined as an appropriately equipped motor vehicle owned or operated by an ambulance service as defined in section three thousand one of the public health law and used for the purpose of transporting emergency medical personnel and equipment to sick or injured persons.

§ 115-d. Environmental emergency response vehicle. Every designated vehicle operated by an agency of the state or a political subdivision thereof, charged with the responsibility for environmental protection, while engaged in a response to a report of an emergency resulting from an actual or potential release, spill or leak of, or other exposure to, hazardous substances.

§ 116. Flammable liquid. Any liquid which has a flash point of eighty degrees Fahrenheit, or less, as determined by a tagliabue or equivalent

open-cup test device.

§ 117. Gross weight. The weight of a vehicle without load plus the weight of any load thereon.

§ 117-a. Hazard vehicle. Every vehicle owned and operated or leased by a utility, whether public or private, used in the construction, maintenance and repair of its facilities, every vehicle specially equipped or designed for the towing or pushing of disabled vehicles, every vehicle engaged in highway maintenance, or in ice and snow removal where such operation involves the use of a public highway, vehicles driven by rural letter carriers while in the performance of their official duties, and every sani-van and waste collection vehicle while engaged in the collection of refuse and/or recyclable materials on a public highway.

§ 117-b. Hazardous operation. The operation, or parking, of a vehicle on or immediately adjacent to a public highway while such vehicle is actually engaged in an operation which would restrict, impede or interfere with the normal flow of traffic.

§ 117-c. Hazardous materials emergency vehicle. Every designated vehicle operated by a hazardous materials emergency response team created pursuant to section two hundred nine-y of the general municipal law specifically equipped for and used in response to reports of emergencies resulting from actual or potential releases, spills or leaks of, or other exposure to hazardous substances.

§ 117-d. Blood delivery vehicle. Every vehicle owned, designated and operated by the not-for-profit corporation incorporated under the name New York blood center specifically equipped for and used in response to reports of the need for transportation of blood or blood products to

general hospitals or other health care facilities. No blood delivery vehicle shall be operated as an authorized emergency vehicle engaged in an emergency operation unless the driver of such vehicle has undergone appropriate training for the operation of authorized emergency vehicles during emergency operations.

§ 117-e. Human organ delivery vehicle. 1. Any vehicle which is owned and operated by a certified organ procurement organization for the sole purpose of transporting human organs and/or medical personnel for the purpose of organ recovery or transplantation while engaged in an emergency operation. For the purpose of this chapter, the term "organ procurement organization" shall mean an organ procurement organization as defined in subdivision five of section forty-three hundred sixty of the public health law which is certified as a qualified organ procurement organization by the federal centers for medicare and medicaid services pursuant to section 273(b) of title 42 of the United States code and section 486.303 of title 42 of the code of federal regulations.

2. No human organ delivery vehicle shall be operated as an authorized emergency vehicle unless: (a) the certified organ procurement organization which owns and operates such vehicle is in compliance with article forty-three-B of the public health law and rules and regulations promulgated thereunder; (b) such vehicle is used solely for the purpose of transporting human organs and/or medical personnel for the purpose of organ recovery or transplantation while engaged in an emergency operation; (c) such vehicle is designated and clearly identified as a human organ delivery vehicle, and, prior to its operation as a human organ delivery vehicle the certified organ procurement organization which owns and operates such vehicle has received written authorization from the commissioner of health for the operation of such vehicle as a human organ delivery vehicle; (d) such vehicle is operated in compliance with this chapter and with regulations promulgated pursuant thereto including subdivision three of this section; and (e) the driver of such vehicle has undergone training for the operation of authorized emergency vehicles during emergency operations as approved pursuant to subdivision

three of this section, and a defensive driving course. The commissioner of health may revoke or suspend a written authorization issued pursuant to paragraph (c) of this subdivision on proof that a certified organ procurement organization has failed to comply with the provisions of this section or any rules and regulations promulgated pursuant thereto. Provided, however, that any such revocations or suspensions shall be subject to the same requirements for revocations, suspensions, hearings, notice and review as set forth in subdivision two of section forty-three hundred sixty-six of the public health law.

3. The commissioner of health, in consultation with the commissioner, shall promulgate regulations to establish standards for the operation of human organ delivery vehicles as authorized emergency vehicles pursuant to this chapter. Such regulations shall, at a minimum: (a) establish standards for the issuance of written authorization for the operation of such vehicles; (b) establish standards for human organ delivery vehicle operations, vehicles and equipment including compliance with this chapter, and the training of human organ delivery vehicle drivers for the safe operation of such vehicles during an emergency operation; (c) require certified organ procurement organizations to establish and enforce written policies concerning minimum qualifications and physical requirements for human organ delivery vehicle drivers and for the equipping and maintenance of such vehicles; and (d) include such other standards or requirements as the commissioner of health and the commissioner deem necessary for the safety and well being of the people of the state.

§ 118. Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

§ 119. House coach. Any vehicle motivated by a power connected therewith or propelled by a power within itself, which is or can be used as the home or living abode or habitation of one or more persons, either temporarily or permanently. In the application of this chapter to house

coaches, a house coach propelled by a power within itself shall be deemed a motor vehicle, a house coach motivated by a power connected therewith shall be deemed a trailer, and all house coaches shall be deemed vehicles.

*** § 119-a. Ignition interlock device.** Any blood alcohol concentration equivalence measuring device which connects to a motor vehicle ignition system and prevents a motor vehicle from being started without first determining through a deep lung breath sample that the operator's equivalent breath alcohol level does not exceed the calibrated setting on the device as required by section eleven hundred ninety-eight of this chapter.

* NB Repealed September 1, 2027

§ 119-b. Inflatable restraint system. 1. An inflatable restraint system means an air bag, as defined in subparagraph (b) of S 4.1.5.1 of standard 208 of part 571 of title 49 of the code of federal regulations, that is designed and installed to be activated in a crash.

2. Readiness indicator light means an indicator monitoring the inflatable restraint system's readiness and such light is clearly visible from the driver's designated seating position.

§ 120. Intersection. (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways

shall be regarded as a separate intersection.

(c) A circular intersection contains an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

§ 121. Laned roadway. A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

§ 121-a. Limited use automobile. A limited use vehicle which, except for the provisions of article forty-eight-A and section four hundred-a of this chapter, would be subject to registration pursuant to subdivision six of section four hundred one of this chapter.

§ 121-b. Limited use motorcycle. A limited use vehicle having only two or three wheels, with a seat or saddle for the operator. A limited use motorcycle having a maximum performance speed, of more than thirty miles per hour but not more than forty miles per hour shall be a class A limited use motorcycle. A limited use motorcycle having a maximum performance speed of more than twenty miles per hour but not more than thirty miles per hour, shall be a class B limited use motorcycle. A limited use motorcycle having a maximum performance speed of not more than twenty miles per hour shall be a class C limited use motorcycle.

§ 121-c. Limited use vehicle. A motor vehicle, other than one registered or capable of being registered pursuant to sections four hundred one or four hundred ten of this chapter, which has a maximum performance speed of not more than forty miles per hour, as defined in section one hundred twenty-two-b of this chapter.

§ 121-d. Leased vehicle. A vehicle owned by a person engaged in the business of renting or leasing vehicles which is rented or leased without a driver to a person other than the owner and is registered

either in the name of the lessee or renter, or in the name of the owner, in a format prescribed by the commissioner.

§ 121-e. Livery. Every motor vehicle, other than a taxicab or a bus, used in the business of transporting passengers for compensation. However, it shall not include vehicles which are rented or leased without a driver.

§ 121-f. Low speed vehicle. A limited use automobile which has a maximum performance speed of greater than twenty miles an hour, but not greater than twenty-five miles an hour or a truck which has a maximum performance speed of greater than twenty miles an hour, but not greater than twenty-five miles an hour and whose gross vehicle weight rating (GVWR) is less than three thousand pounds. All such vehicles shall comply with the safety standards established in 49 C.F.R. 571.500.

§ 122. Local authorities. Every county, municipal or other local board, body or officer, county park commission, parkway authority, bridge authority, bridge and tunnel authority, the office of parks and recreation, the New York state thruway authority or similar body or person having authority to enact laws or regulations relating to traffic under the constitution and laws of this state.

§ 122-a. Maximum gross weight. The weight of the vehicle unladen plus the weight of the maximum load to be carried by such vehicle during the registration period or the maximum gross weight for which the vehicle is registered, whichever is greater.

§ 122-b. Maximum performance speed. For the purposes of article forty-eight-A of this chapter, maximum performance speed shall be the greatest speed which can be attained and maintained by a limited use vehicle under conditions prescribed by the commissioner at the time of

its manufacture, as certified by the manufacturer and filed with and accepted by the commissioner. The maximum performance speed of a limited use vehicle shall remain as certified regardless of any modification made to such vehicle after such certification.

§ 122-c. Mobile home or manufactured home. A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

§ 123. Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

*** § 124. Minimum maintenance road.** A low-volume road or portion thereof which is designated by the town having jurisdiction over such road pursuant to section two hundred five-c of the highway law.

* NB Repealed December 8, 2031

§ 125. Motor vehicles. Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (a-1) electric personal assistive mobility devices operated outside a city with a population of one million or more, (b) vehicles which run only upon rails or tracks, (c) snowmobiles as defined in article forty-seven of this chapter, (d) all terrain vehicles as defined in article forty-eight-B of this chapter, (e) bicycles with electric assist as defined in section one hundred two-c of this article, and (f) electric scooters as defined in section

one hundred fourteen-e of this article. For the purposes of title four of this chapter, the term motor vehicle shall exclude fire and police vehicles other than ambulances. For the purposes of titles four and five of this chapter the term motor vehicles shall exclude farm type tractors and all terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

§ 125-a. Off-highway motorcycle. Off-highway motorcycle is a motorcycle which is not equipped in conformity with the provisions of section three hundred eighty-one of this chapter, would not, if properly equipped, qualify as a limited use motorcycle, and which is manufactured and sold for operation primarily on off-highway trails or in off-highway competitions and only incidentally operated on public highways.

§ 126. Omnibus. Any motor vehicle used in the business of transporting passengers for hire, except such a motor vehicle used in the transportation of agricultural workers to and from their employment.

§ 127. Overhang. That portion of a transported vehicle or boat which extends beyond the front or rear bumper of an automobile transporter or stinger-steered automobile transporter or boat transporter or stinger-steered boat transporter, or that portion of a transported vehicle that extends beyond the rear bumper of a car carrier.

§ 128. Owner. A person, other than a lien holder, having the property in or title to a vehicle or vessel. The term includes a person entitled to the use and possession of a vehicle or vessel subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle or vessel having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days.

§ 129. Park or parking. Means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

§ 129-a. Parking area of a shopping center. An area or areas of private property totaling at least one acre, near or contiguous to and provided in connection with premises having one or more stores or business establishments, and used by the public as a means of access to and egress from such stores and business establishments and for the free parking of motor vehicles of customers and patrons of such stores and business establishments.

§ 129-b. Parking lot. Any area or areas of private property near or contiguous to and provided in connection with premises having one or more stores or business establishments, and used by the public as a means of access to and egress from such stores and business establishments and for the parking of motor vehicles of customers and patrons of such stores and business establishments.

§ 130. Pedestrian. Any person afoot or in a wheelchair.

§ 130-a. Wheelchair. A wheelchair is any manual or electrically driven mobility assistance device, scooter, tricycle or similar device used by a person with a disability as a substitute for walking.

An electrically driven mobility assistance device means any wheeled, electrically powered device designed to enable a person with a disability to move from place to place.

§ 131. Person. Every natural person, firm, copartnership,

association, or corporation.

§ 131-a. Place of public assembly. A place of public assembly shall include (1) a theatre, (2) a moving picture house, or (3) an assembly hall maintained or leased for pecuniary gain where one hundred or more persons may assemble for amusement or recreation.

§ 132. Police officer. All police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, and every duly designated peace officer as defined in section 2.20 of such law, when such peace officer is acting pursuant to his special duties.

§ 132-a. Police vehicle. Every vehicle owned by the state, a public authority, a county, town, city or village, and operated by the police department or law enforcement agency of such governmental unit or by a constable or police constable of a town when acting pursuant to his special duties. Any other vehicle operated by a chief or deputy or assistant chief of a police department, a sheriff, undersheriff or regular deputy sheriff, and a vehicle owned and operated by the law enforcement unit of a public or private corporation authorized by law to maintain a unit for the enforcement of law on the property of such corporation shall be a police vehicle only for the purposes of section one hundred one of this chapter.

§ 133. Private road. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

§ 134. Public highway. Any highway, road, street, avenue, alley, public place, public driveway or any other public way.

§ 134-a. Qualifying highway. The highways on the national system of interstate and defense highways and federal-aid primary system highways that are designated by the commissioner of transportation pursuant to section sixteen hundred twenty-seven of this chapter.

§ 134-b. Radar detector. Any instrument designed to detect the presence of microwaves at frequencies specifically assigned by the federal communications commission for the purpose of maintaining vehicular speed.

§ 134-c. Laser detector. Any instrument designed to detect the presence of laser speed detection devices.

§ 135. Railroad. A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

§ 135-a. Railroad grade crossing. A location where a public highway or private road, including associated sidewalks, crosses one or more railroad tracks at grade.

§ 136. Railroad sign or signal. Any sign, signal, or device erected by authority of a public body or official by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

§ 137. Railroad train. A steam engine, electric or other motor locomotive or car, with or without cars coupled thereto, operated upon rails, except streetcars.

§ 137-a. Rental vehicle. A vehicle owned by a person engaged in the

business of renting or leasing vehicles which is rented or leased without a driver to a person other than the owner and is registered in the name of such owner.

§ 138. Residence district. The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

§ 139. Right of way. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

§ 140. Roadway. That portion of a highway improved, designed, marked, or ordinarily used for vehicular travel, exclusive of the shoulder and slope. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

§ 140-a. In-line skate. A manufactured or assembled device consisting of an upper portion that is intended to be secured to a human foot, with a frame or chassis attached along the length of the bottom of such upper portion, with such frame or chassis holding two or more wheels that are longitudinally aligned and used to skate or glide, by means of human foot and leg power while having such device attached to each such foot or leg.

"Brake" shall mean a part which is secured to an in-line skate, as defined in paragraph (b) of subdivision one of section three hundred ninety-one-m of the general business law and intended to enable the user to control his or her speed and/or come to a stop.

"Warning instruction" shall mean a label, hang-tag, shield or plate with substantially the following notice printed in clear and conspicuous type: "WARNING! REDUCE THE RISK OF SERIOUS INJURY, AND ONLY USE THESE SKATES WHILE WEARING FULL PROTECTIVE GEAR - HELMET, WRIST GUARDS, ELBOW PADS, AND KNEE PADS."

§ 140-b. Roller skate. A manufactured or assembled device consisting of a frame or shoe having clamps or straps or both for fastening, with a pair of small wheels near the toe and another pair at the heel mounted or permanently attached thereto, for skating or gliding by means of human foot and leg power.

§ 140-c. Skate board. A manufactured or assembled device consisting of a platform having a pair of small wheels near the front and another pair at the rear mounted or permanently attached thereto, for skating or gliding by means of human foot and leg power.

§ 140-d. Roundabout. A circular intersection which is characterized by a circulatory roadway with counterclockwise movement, channelized approaches, low speeds, and yield control of entering traffic. A roundabout encompasses the area bounded by the outermost curb line or, if there is no curb, the edge of the pavement, and includes crosswalks on any entering or exiting roadway.

§ 141. Safety zone. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

§ 141-a. Sanitation patrol vehicle. Every vehicle operated by an officer or member of the sanitation police of the department of sanitation of the city of New York, duly appointed and designated as a

peace officer by such department, when such officer or member is acting pursuant to his special duties.

§ 141-b. Sani-vans. Any motor vehicle which is so designed that it contains a rear compaction unit and is intended for use in the collection of refuse. For the purpose of section one hundred seventeen-a of this chapter, the term "sani-van" shall mean any motor vehicle which is so designed that it contains a rear compaction unit and is intended for and is used in the collection of refuse and/or recyclable materials.

§ 142. School bus. Every motor vehicle owned by a public or governmental agency or private school and operated for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities or privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities.

§ 143. Semitrailer. Any trailer which is so designed that when operated the forward end of its body or chassis rests upon the body or chassis of the towing vehicle.

§ 143-a. Shoulder. That improved portion of a highway contiguous with the roadway.

§ 144. Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

§ 144-a. Slope. That portion of a highway exclusive of the roadway and shoulder.

§ 144-b. Snow emergency. A determination made by the official having jurisdiction of a highway that, because of existing or forecasted weather conditions, pursuant to section sixteen hundred twenty-one, sixteen hundred forty, sixteen hundred fifty or sixteen hundred sixty of this chapter, traffic shall be regulated in accordance with section one hundred forty-five-c of this article.

§ 145. Stand or standing. Means the stopping of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

§ 145-a. State expressway routes. Those highways specified and described as such pursuant to section three hundred forty-c of the highway law.

§ 145-b. State interstate routes. Those highways specified and described as such pursuant to section three hundred forty-a of the highway law.

§ 145-c. Snow emergency route. A street or highway designated as a snow emergency route by the state or municipality having jurisdiction over such street or highway upon which no vehicle shall operate without snow tires and/or tire chains when a snow emergency has been declared by the state or municipality having jurisdiction thereof. Each snow emergency route shall be posted in accordance with the provisions of article forty-four of this chapter. The provisions of this section shall not apply to signs installed and operative prior to the date on which this section takes effect, provided, however, that the provisions of this section shall apply to signs replaced on and after such date.

§ 145-d. Definition of snow tire. Snow tires shall include tires in which the ply cords extending to the beads are nearly at right angles to the center line of the tread commonly referred to as radial tires and the commissioner shall promulgate rules and regulations defining the term snow tire with respect to non-radial tires. No person whose motor vehicle is equipped with radial tires or tires which conform to the definition promulgated by the commissioner shall be prosecuted for a violation of any local law or ordinance requiring the equipping of a motor vehicle with snow tires during any period of declared snow emergency.

§ 145-e. Stinger-steered automobile transporter. An automobile transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame located behind and below the rear-most axle of the power unit.

§ 145-f. Stinger-steered boat transporter. A boat transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame located behind and below the rear-most axle of the power unit.

§ 146. Stop. When required means complete cessation from movement.

§ 147. Stop or stopping. When prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

§ 148. Street. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

§ 148-a. Taxicab. Every motor vehicle, other than a bus, used in the business of transporting passengers for compensation, and operated in such business under a license or permit issued by a local authority. However, it shall not include vehicles which are rented or leased without a driver.

§ 148-b. Tow truck. A motor vehicle that tows or carries a disabled, illegally parked or abandoned motor vehicle or a motor vehicle involved in an accident.

§ 149. Through highway. Every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is controlled by traffic-control signals or is required by law to yield the right of way to vehicles on such through highway in obedience to a flashing red signal, a stop sign or a yield sign, when such signals or signs are erected as provided in this chapter.

§ 151-a. Tractor. A motor vehicle designed and used as the power unit in combination with a semitrailer or trailer, or two such trailers in tandem. Any such motor vehicle shall not carry cargo except that a tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

§ 152. Traffic. Pedestrians, ridden or herded animals, vehicles, bicycles, and other conveyances either singly or together while using any highway for purposes of travel.

§ 153. Traffic control devices. All signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction for the

purpose of regulating, warning or guiding traffic.

§ 154. Traffic-control signal. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

§ 155. Traffic infraction. The violation of any provision of this chapter, except articles forty-seven and forty-eight, or of any law, ordinance, order, rule or regulation regulating traffic which is not declared by this chapter or other law of this state to be a misdemeanor or a felony. A traffic infraction is not a crime and the punishment imposed therefor shall not be deemed for any purpose a penal or criminal punishment and shall not affect or impair the credibility as a witness or otherwise of any person convicted thereof. This definition shall be retroactive and shall apply to all acts and violations heretofore committed where such acts and violations would, if committed subsequent to the taking effect of this section, be included within the meaning of the term "traffic infraction" as herein defined. Except in those portions of Suffolk county for which a district court has been established, outside of cities having a population in excess of one million in which administrative tribunals have heretofore been established, courts and judicial officers heretofore having jurisdiction over such violations shall continue to do so and for such purpose such violations shall be deemed misdemeanors and all provisions of law relating to misdemeanors except as provided in section eighteen hundred five of this chapter and except as herein otherwise expressly provided shall apply except that no jury trial shall be allowed for traffic infractions. In those portions of Suffolk county for which a district court has been established and in cities having a population in excess of one million in which administrative tribunals have heretofore been established, the criminal courts of such cities or portions of Suffolk county in which a district court has been established shall have jurisdiction to hear and determine any complaint alleging a violation constituting a traffic infraction, except that administrative tribunals heretofore established in such cities or portions of Suffolk county in

which a district court has been established shall have jurisdiction to hear and determine any charge of an offense which is a traffic infraction, except parking, standing or stopping. In cities having a population in excess of two hundred thousand in which administrative tribunals have heretofore been established, and any such administrative tribunal established by the city of Yonkers, the city of Peekskill, or the city of Syracuse, such tribunals shall have jurisdiction to hear and determine any charge of an offense which is a parking, standing or stopping violation. Any fine imposed by an administrative tribunal shall be a civil penalty. For purposes of arrest without a warrant, pursuant to article one hundred forty of the criminal procedure law, a traffic infraction shall be deemed an offense.

§ 156. Trailer. Any vehicle not propelled by its own power drawn on the public highways by a motor vehicle as defined in section one hundred twenty-five operated thereon, except motorcycle side cars, vehicles being towed by a non-rigid support and vehicles designed and primarily used for other purposes and only occasionally drawn by such a motor vehicle.

§ 157. Trolley bus or trolley coach. Any motor vehicle not operated on rails or tracks which is propelled by electric power received from overhead trolley wires and which is operated by a person or corporation subject to the jurisdiction of the public service commission, pursuant to local consent and a certificate, permission and approval, or authority granted by the commission.

§ 158. Truck. Every motor vehicle designed, used, or maintained primarily for the transportation of property.

§ 158-a. U turn. Any turn executed so as to proceed in the opposite direction.

§ 158-b. Vanpool vehicle. Any motor vehicle which is manufactured and equipped in such manner as to provide a seating capacity of not less than six and not more than fifteen passengers, in addition to the driver, and which is owned by, or leased to, a person, firm, corporation, association, municipality or public authority in this state to be used for the purpose of vanpooling, which shall mean the prearranged transport of persons to and from their places of employment or other destinations on a regular daily basis provided that any moneys paid by the passengers to the vanpool vehicle owner, lessee or operator are solely for the recovery of some or all expenses related directly to the transport of the passengers, including tolls, fuel, insurance and depreciation, on a non-profit basis.

§ 159. Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

§ 159-a. Waste collection vehicle. Any motor vehicle which is commonly classified as a garbage truck that is designed for and is used in the collection of refuse and/or recyclable materials.

§ 160. Wheel lift. Any device that may be extended beyond the rear bumper of a tow truck or car carrier for the purpose of towing another vehicle. Such device may also be referred to as an "under lift".

§ 161. Work area. That part of a highway being used or occupied for the conduct of highway work, within which workers, vehicles, equipment, materials, supplies, excavations, or other obstructions are present.

TITLE II

DEPARTMENT OF MOTOR VEHICLES; COMMISSIONER

Article 2. Department of motor vehicles; commissioner.
2-A. Adjudication of traffic infractions.
2-B. Adjudication of parking infractions.
3. Exemption of non-resident owners and operators.
3-A. Administrative appeals.

ARTICLE 2

DEPARTMENT OF MOTOR VEHICLES; COMMISSIONER

Section 200. Department of motor vehicles; commissioner.
201. Custody of records.
202. Fees for searches and copies of documents.
202-b. Penalties for submission of dishonored checks and credit card payments.
203. Oaths and acknowledgments.
204. Subpoenaing hearing referees.
205. County clerks as agents of the commissioner; fees.
206. Deputization of agents.
207. Uniform traffic summons and complaint.
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209. Bureau of motor vehicles abolished; transfer of functions; officers and employees.
210. Highway safety powers and duties.
211. Continuity of authority.
212. Transfer of records and property.
213. Terms occurring in contracts and other documents.
214. Proof of mailing of notice or order.
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216. Automotive-medical research division.
216-a. Statistics on driving while intoxicated.
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218. Special classification of vehicles.
219. Interstate compacts.
219-a. State membership in a multistate voter list maintenance organization.
220. Exemptions for safety equipment.

221. Annual compilation of this chapter.
222. Exemptions for testing, demonstration or experimentation.
223. Motor vehicle theft prevention program.
223-a. School bus motorist education program.
224. Simplification of business application procedures and administration.
224-a. Establishment of the highway construction and maintenance safety education program.

§ 200. Department of motor vehicles; commissioner. 1. There shall be in the state government a department of motor vehicles. The head of the department shall be the commissioner of motor vehicles who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office until the end of the term of the appointing governor and until a successor is appointed and has qualified, and who shall receive an annual salary within the amount appropriated therefor. The commissioner of motor vehicles shall have the immediate charge of the department. The commissioner of motor vehicles may appoint, and at pleasure remove, such deputy commissioners of motor vehicles, inspectors, examiners and other assistants and employees of the department as are deemed necessary, within the amounts available therefor by appropriation. The commissioner of motor vehicles and all other officers and employees of the department shall be paid and allowed their necessary, actual and reasonable expenses incurred in the exercise of their duties. All salaries and expenses of the department shall be paid out of the state treasury on the audit and warrant of the comptroller on the certificate of the commissioner of motor vehicles. The principal office of the department shall be in the city of Albany.

2. (a) The commissioner of motor vehicles may enter into a contract for the publication of a driver's manual. Such contract may provide for the sale of advertising by the contractor. A contract for publication of a driver's manual shall be awarded following consideration of factors which shall include, but not be limited to, the most favorable financial advantage for the state, and the greatest utility to the motorist. The commissioner shall issue a request for proposal for publication of the

driver's manual which shall set requirements for the preparation of bids; responsibility for preparation and placement of appropriate advertising content, which shall be limited to no more than thirty percent of the total space available; approval of the commissioner at critical stages of the driver's manual development, including appropriate timetables and schedules; approval of advertising standards and rates; any securities which shall be required of the contractor and deadlines for selection of a competent contractor.

(b) On or before February first of each year following enactment hereof, the department shall submit a report to the director of the division of the budget detailing any proposed privatization initiatives it would like to undertake including a summary of each initiative, the cost savings associated with each initiative and the impact of each initiative on customer service and departmental staffing levels. Copies of such report shall be simultaneously filed with the chairpersons of the senate finance committee and the assembly ways and means committee.

§ 201. Custody of records. 1. Documents. The commissioner may destroy:

(a) any application, including supporting documents, for registration and/or title of a motor vehicle or trailer, other than an application for renewal of registration, or any notice of a lien on a motor vehicle or trailer, after such application shall have been on file for a period of five years;

(b) any application for renewal of a registration which results in the issuance of a registration renewal of any motor vehicle or trailer, upon entry of an electronic record of renewal on the files;

(c) any application for a driver's license, including any document required to be filed with any such application, after such application shall have been on file for a period of five years;

(d) any application, including supporting documents, for the registration, other than a renewal of a registration, of a snowmobile after such application shall have been on file for a period of two years;

(e) any application for renewal of a registration which results in the issuance of a registration renewal for any snowmobile, upon the expiration of the registration renewal issued;

(f) any application, including supporting documents, for registration and/or title of a motorboat, other than an application for renewal of registration, or any notice of a lien on a motorboat after such application shall have been on file for a period of four years;

(g) any application for renewal of a registration which results in the issuance of a registration renewal for any motorboat, upon the expiration of the registration renewal issued;

(h) any application, including supporting documents relating to ownership, for any other registration, license or certificate issued under this chapter and not specifically otherwise provided for in this subdivision, after such application shall have been on file for a period of five years;

(i) (i) any accident reports filed with the commissioner, conviction certificates, police reports, complaints, satisfied judgment records, closed suspension and revocation orders, hearing records, other than audio tape recordings of hearings, significant correspondence relating to any of the same, and any other record on file after remaining on file for four years except that if the commissioner shall receive, during the last year of such period of four years, written notice to retain one or more of such papers or documents, the same shall be retained for another four years in addition to said period of four years. The provisions of this paragraph shall not apply to certificates of conviction filed with respect to convictions which affect sentencing or administrative action required by law beyond such four year period. Such certificates may be destroyed after they have no legal effect on sentencing or administrative action;

(ii)(A) Notwithstanding the provisions of subparagraph (i) of this paragraph, the commissioner may destroy any conviction certificates and closed suspension and revocation orders after remaining on file for:

(1) fifty-five years where the conviction and suspension or revocation order relates to a conviction, suspension or revocation by the holder of any driver's license when operating a commercial motor vehicle, as defined in subdivision four of section five hundred one-a of this chapter, or by the holder of a commercial driver's license or commercial learner's permit when operating any motor vehicle, who: has refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this chapter or has been convicted of any of the following offenses:

any violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, any felony involving the use of a motor vehicle, other than the use of a motor vehicle in the commission of a felony involving manufacturing, distributing, dispensing a controlled substance; or the conviction, suspension or revocation involves any of the following offenses while operating a commercial motor vehicle: any violation of subdivision five or six of section eleven hundred ninety-two of this chapter, driving a commercial motor vehicle when as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license or commercial learner's permit is suspended or revoked, or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter and criminally negligent homicide as set forth in article one hundred twenty-five of the penal law;

(2) fifteen years for violating an out of service order as provided for in the rules and regulations of the department of transportation while operating a commercial motor vehicle.

(B) Any conviction arising out of the use of a motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance shall never be destroyed.

(C) The provisions of this subparagraph shall only apply to records requested by a state, the United States secretary of transportation, the person who is the subject of the record, or a motor carrier who employs or who prospectively may employ the person who is the subject of the record.

(j) audio tape recordings of hearings, two years after such hearing; provided, however, that audio tape recordings of hearings held pursuant to section two hundred twenty-seven of this chapter may be destroyed ninety days after a determination has been made as prescribed in such section.

(k) any records, including any reproductions or electronically created images of such records and including any records received by the commissioner from a court pursuant to paragraph (c) of subdivision ten of section eleven hundred ninety-two of this chapter or section forty-nine-b of the navigation law, relating to a finding of a violation

of section eleven hundred ninety-two-a of this chapter or a waiver of the right to a hearing under section eleven hundred ninety-four-a of this chapter or a finding of a refusal following a hearing conducted pursuant to subdivision three of section eleven hundred ninety-four-a of this chapter or a finding of a violation of section forty-nine-b of the navigation law or a waiver of the right to a hearing or a finding of refusal following a hearing conducted pursuant to such section, after remaining on file for three years after such finding or entry of such waiver or refusal or until the person that is found to have violated such section reaches the age of twenty-one, whichever is the greater period of time. Upon the expiration of the period for destruction of records pursuant to this paragraph, the entirety of the proceedings concerning the violation or alleged violation of such section eleven hundred ninety-two-a of this chapter or such section forty-nine-b of the navigation law, from the initial stop and detention of the operator to the entering of a finding and imposition of sanctions pursuant to any subdivision of section eleven hundred ninety-four-a of this chapter or of section forty-nine-b of the navigation law shall be deemed a nullity, and the operator shall be restored, in contemplation of law, to the status he occupied before the initial stop and prosecution.

2. Reproduction of documents by commissioner. The provisions of subdivision one of this section shall not prevent the commissioner from reproducing a copy of any document specified in that subdivision or from electronically creating and storing an image of any documents maintained by the department. Such image or reproduction may be designated as the official departmental record. The original document may be destroyed after such reproduction or image has been made and filed and the destruction of the reproduction or image shall be governed by the provisions of subdivision one of this section.

3. Electronically or mechanically stored records. Any electronically or mechanically stored record relating to:

(a) certificates of title shall be retained for a period of seven years from the date of the issuance of the title plus an additional three consecutive years of inactivity regarding the titled vehicle;

(b) liens and satisfaction of liens shall be retained for one year

from the date of satisfaction;

(c) renewal of the registration of any motor vehicle or trailer shall be retained for a period of one year from the date of expiration of the registration issued;

(d) driver's licenses shall be retained for a period of two years from the date of expiration of the last driver's license issued;

(e) registrations, licenses, or certificates not otherwise provided for in this subdivision shall be retained for a period of one year from the date of expiration of the last registration, license or certificate;

(f) documents specified in paragraph (i) of subdivision one of this section shall be retained until the document itself may be destroyed.

4. Whenever any document referred to in subdivision one of this section shall have been destroyed, a document produced from the surviving electronically or mechanically stored data record shall be considered the original record of such document.

5. Whenever any document referred to in subdivision one of this section or any record retained in subdivision three of this section has been retained beyond the required retention period of such document or record, the document or record shall not be a public record; and, to the extent that any document referred to in paragraph (k) of subdivision one of this section has not been destroyed at the expiration of the retention period set forth therein, such document shall be deemed destroyed as a matter of law for all purposes upon the expiration of the retention period.

6. Whenever any document referred to in subdivision one of this section is filed with this department when it is not required to be filed and is used by this department for no other purposes, other than for statistics or research, the document shall not be a public record. Provided, however, that an accident report filed with this department when it is not required to be filed shall not be a public record except as follows: for use by the state or any political subdivision thereof for no other purposes other than for statistics or research relating to highway safety; for any lawful purpose by a person to whom such report pertains or named in such report, or his or her authorized

representative; and, for use by any other person, or his or her authorized representative, who has demonstrated to the satisfaction of the commissioner that such person is or may be a party to a civil action arising out of the conduct described in such accident report.

7. Where a judge or magistrate reports a license suspension or revocation to the commissioner, following a youthful offender determination, as is required by section five hundred thirteen of this chapter, the commissioner shall not make available the finding of the court of youthful offender status to any person, or public or private agency.

8. Any portion of any record retained by the commissioner in relation to a non-commercial driver's license or learner's permit application or renewal application that contains the photo image or identifies the social security number, telephone number, place of birth, country of origin, place of employment, school or educational institution attended, source of income, status as a recipient of public benefits, the customer identification number associated with a public utilities account, medical information or disability information of the holder of, or applicant for, such license or permit is not a public record and shall not be disclosed in response to any request for records except: (a) to the person who is the subject of such records; or (b) where expressly required pursuant to chapter three hundred three of part A of subtitle vi of title forty-nine of the United States code; or (c) where necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual records issued pursuant to the criminal procedure law or the civil practice law and rules.

9. The commissioner shall not disclose or otherwise make accessible original documents or copies of documents collected from non-commercial driver's license or learner's permit applicants or renewal applicants to prove identity, age, or fitness except: (a) to the person who is the subject of such documents; or (b) where expressly required pursuant to chapter three hundred three of part A of subtitle vi of title forty-nine of the United States code; or (c) unless necessary to comply with a

lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual records properly issued pursuant to the criminal procedure law or the civil practice law and rules.

10. The commissioner shall not disclose or otherwise make accessible any portion of any record that identifies whether the type of driver's license or learner's permit that a person holds either meets federal standards for identification or does not meet federal standards for identification except: (a) to the person who is the subject of such record; or (b) where expressly required pursuant to chapter three hundred three of part A of subtitle vi of title forty-nine of the United States code; or (c) unless necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual records properly issued pursuant to the criminal procedure law or the civil practice law and rules.

11. For the purposes of this section, whenever a lawful court order, judicial warrant, or subpoena for individual records properly issued pursuant to the criminal procedure law or the civil practice law and rules is presented to the commissioner, only those records, documents, or information specifically sought by such court order, warrant, or subpoena may be disclosed.

12. (a) Except as required for the commissioner to issue or renew a driver's license or learner's permit that meets federal standards for identification, as necessary for an individual seeking acceptance into a trusted traveler program, or to facilitate vehicle imports and/or exports, the commissioner, and any agent or employee of the commissioner, shall not disclose or make accessible in any manner records or information that he or she maintains, to any agency that primarily enforces immigration law or to any employee or agent of such agency, unless the commissioner is presented with a lawful court order or judicial warrant signed by a judge appointed pursuant to article III of the United States constitution. Upon receiving a request for such records or information from an agency that primarily enforces

immigration law, the commissioner shall, no later than three days after such request, notify the individual about whom such information was requested, informing such individual of the request and the identity of the agency that made such request.

(b) The commissioner shall require any person or entity that receives or has access to records or information from the department to certify to the commissioner, before such receipt or access, that such person or entity shall not (i) use such records or information for civil immigration purposes or (ii) disclose such records or information to any agency that primarily enforces immigration law or to any employee or agent of any such agency unless such disclosure is pursuant to a cooperative arrangement between city, state and federal agencies which arrangement does not enforce immigration law and which disclosure is limited to the specific records or information being sought pursuant to such arrangement. Violation of such certification shall be a class E felony. In addition to any records required to be kept pursuant to subdivision (c) of section 2721 of title 18 of the United States code, any person or entity certifying pursuant to this paragraph shall keep for a period of five years records of all uses and identifying each person or entity that primarily enforces immigration law that received department records or information from such certifying person or entity. Such records shall be maintained in a manner and form prescribed by the commissioner and shall be available for inspection by the commissioner or his or her designee upon his or her request.

(c) For purposes of this subdivision, the term "agency that primarily enforces immigration law" shall include, but not be limited to, United States immigration and customs enforcement and United States customs and border protection, and any successor agencies having similar duties. Failure to maintain records as required by this subdivision shall be a class E felony.

§ 202. Fees for searches and copies of documents. 1. Except in those cases in which it is provided by law that no fee shall be charged, the fees for searching the records of the department of motor vehicles kept pursuant to the provisions of this chapter and for furnishing copies of documents in said department kept pursuant to the provisions of this

chapter shall be as provided in this section. Provided, however, that no fee shall be charged any public officer, board or body, volunteer fire company, volunteer ambulance service, or legal aid bureau or society or other private entity when acting pursuant to section seven hundred twenty-two of the county law, for searches or copies of documents to be used for a public purpose.

2. Fees for searches of records. * (a) The fee for a search which is made manually by the department shall be ten dollars.

* NB Effective until April 1, 2028

* (a) The fee for a search which is made manually by the department shall be five dollars.

* NB Effective April 1, 2028

* (b) The fee for a search which is made by direct entry by a requester who has been approved for such entry by the commissioner shall be seven dollars.

* NB Effective until April 1, 2028

* (b) The fee for a search which is made by direct entry by a requester who has been approved for such entry by the commissioner shall be four dollars.

* NB Effective April 1, 2028

* (c) The fee for a search which is made by means of an electronic medium which has been prepared by a requester who has been approved for such service by the commissioner and which is processed by the department shall be seven dollars.

* NB Effective until April 1, 2028

* (c) The fee for a search which is made by means of an electronic medium which has been prepared by a requester who has been approved for such service by the commissioner and which is processed by the department shall be four dollars.

* NB Effective April 1, 2028

(d) The commissioner may condition approval for direct entry of a request or use of an electronic medium by a requester upon the establishment and maintenance of an account with the department with a minimum balance established by the commissioner from which fees chargeable to the requester shall be deducted. In addition, the commissioner shall prescribe the specifications and procedures for use

of electronic media and may establish a minimum and/or a maximum number of searches which may be contained on any one such electronic medium submission.

(e) For the purposes of this section, a search shall consist of a single entry of an acceptable identifier for the purpose of obtaining a specific category of information relating to a person, vehicle or number plate. The commissioner shall by regulation define such categories and identifiers acceptable for such categories. Except as provided in subdivision three of this section, a search of the record of the department shall include the furnishing of the information disclosed by such search, and with respect to searches made manually by the department, shall include a certification of such record.

3. Fees for copies of documents. The fees for copies of documents, other than accident reports, shall be one dollar per page. A page shall consist of either a single or double side of any document. The fee for a copy of an accident report shall be fifteen dollars. All copies of documents shall be certified at no additional fee. Whenever search of records of the department is required in conjunction with a request for a copy of a document, the fee for such search shall be the fee provided in paragraph (a) of subdivision two of this section. The result of such search will be the locating of the document to be copied, or if no document can be located, a certification to that effect will be the result of the search.

4. Registration lists and title information. (a) The commissioner shall have discretion to contract with the highest responsible bidder or bidders to furnish the registration information specified in this section from the records of all vehicle registrations from any registration period, or number of periods not exceeding five years in the aggregate, with respect to a given territory or information on titles. In such event, the fees provided by this section shall not apply to copies of records furnished under any such contract. Any such contract entered into by the commissioner pursuant to this section shall not be for a term of more than two years and shall contain language prohibiting the successful bidder from assigning the contract and from any use or resale of the information received which use or resale is

contrary to the public policy of this state or is contrary to the public morals or welfare. In addition, any such sale of registration information shall be limited to only that part of the vehicle registration records describing the name and address of the owner of the vehicle and the make, model, year, weight, body style, number of passengers and cylinders, fuel, license number, type of registration and transaction, validation and expiration date and vehicle identification number of the vehicle.

(b) The commissioner shall notify each vehicle registrant that the registration information specified in paragraph (a) of this subdivision has been or will be furnished to the contracting party. The commissioner shall inform each vehicle registrant when such registrant first makes application for a vehicle registration or when such registrant applies to renew an existing vehicle registration how to achieve the deletion of such information from the contracting party's file. The contract between the commissioner and the contracting party shall provide that, upon the request of the registrant made in such manner and in such form as shall be prescribed by the commissioner, such registration information shall be deleted from the contracting party's file for all purposes, except: (i) issuance of manufacturer's warranty, safety recall or similar notices, or (ii) statistical complications.

(c) Any material violation of the terms of such contract by the successful bidder not corrected or discontinued within thirty days following receipt of notice of such violation will automatically cancel and void its contract with the commissioner and disqualify it from bidding for the five successive years following such cancellation.

(d) Any contract authorized by this section shall be subject to the provisions of article nine of the state finance law.

(e) The commissioner may from time to time require that the contracting party pursuant to this section submit written reports, in form satisfactory to the commissioner, concerning the use of such registration or title information.

5. Miscellaneous charges. The commissioner upon request may furnish copies of documents and records of searches by means other than first class mail upon prior payment of any additional cost involved in such transmission. Where the cost of such requested transmission cannot be

readily determined before transmission, the commissioner may establish a reasonable fee to cover the cost of such transmission. Nothing herein shall be construed to require the commissioner to provide such service.

§ 202-b. Penalties for submission of dishonored checks and credit card payments. (a) A thirty-five dollar penalty fee shall be charged to any person who has submitted a check to the commissioner or his or her agent as payment for any license, permit or registration or any other type of fee for any type of transaction as required by this chapter and such check has been dishonored. Such thirty-five dollar penalty shall be added to the amount due to the commissioner. In addition, any or all licenses, permits or registrations issued in the name of such person may be suspended and, if a suspension has been issued, any other transaction in the name of such person with this department may be prohibited until full satisfaction of the amount due to the commissioner and the thirty-five dollar penalty fee is paid to the commissioner. No such suspension shall be issued until thirty days after notification that the check has been dishonored is mailed to such person. If satisfaction is made within thirty days from the date of mailing of such notification, no suspension shall be issued. (b) In any case where a person has made a credit card payment to the commissioner or his or her agent as payment for any license, permit or registration or any other type of fee for any type of transaction as required by this chapter, and such credit card payment is contested and is not honored by the credit card company, any other transaction in the name of such person with the department may be prohibited, upon at least thirty days notice, until full satisfaction of the amount due to the commissioner has been paid.

§ 203. Oaths and acknowledgments. The commissioner of motor vehicles, a deputy commissioner, an assistant deputy commissioner or a motor vehicle referee shall have power to administer oaths and take affidavits and acknowledgments in relation to any matter or proceeding in the exercise of the powers or the performance of the duties of the commissioner under this chapter. Any officer or employee of the department of motor vehicles, designated for that purpose by the

commissioner of motor vehicles, or any assistant to a county clerk as may be designated by such county clerk, shall have power to take any affidavit or acknowledgment which any person is required to file with the department of motor vehicles.

§ 204. Subpoenaing hearing referees. No officer or employee of the department of motor vehicles who has conducted a hearing concerning an owner or operator of a motor vehicle or motorcycle shall be required to appear in any court as a witness in a civil action in which such owner or operator is a party except pursuant to a subpoena signed by a judge of a court of record, or a judge of the court in which the action is pending, issued upon an application to such judge after, at least, one day's notice to the commissioner or a deputy commissioner of motor vehicles.

§ 205. County clerks as agents of the commissioner; fees. 1. The clerk of each county, except the counties of Rockland, Albany, Westchester, Suffolk, Nassau, Onondaga, Bronx, Kings, Queens, Richmond and New York, shall act as the agent of the commissioner in the registration of motor vehicles, motorcycles, and when directed by the commissioner snowmobiles, vessels and all terrain vehicles, and in the issuance of certificates thereof and number plates therefor, in receiving documents relating to certificates of title, and unless and until the commissioner shall otherwise direct in any county, in the issuance of non-driver identification cards and drivers' licenses upon the certification of inspectors, and motor vehicle enforcement transactions. Each such agent shall remit to the commissioner all fees collected by him for registrations, licenses, identification cards and transfers or relating to certificates of title, except as hereinafter provided, together with a complete record of such registrations, identification cards and licenses issued and transfers made, in accordance with the procedure prescribed by the commissioner, and with all documents relating to certificates of title received and such record thereof as the commissioner prescribes.

2. The commissioner may authorize such county clerk to establish one or more temporary branch offices within the county, when deemed necessary, to issue certificates of registration, and number plates therefor for motor vehicles, motorcycles, snowmobiles and vessels or the renewal or issuance of non-driver identification cards and drivers' licenses on certification of inspectors or to receive documents relating to certificates of title. The work in such temporary branch offices shall be performed by one or more employees of the clerk's office designated for the purpose without additional compensation. The expenses actually and necessarily incurred by the county clerk or such employees shall be a charge against the county.

3. Each such county clerk shall retain from fees collected for any motor vehicle related service described in subdivision one of this section processed by such county clerk an amount based on a percentage of gross receipts collected. For purposes of this section, the term "gross receipts" shall include all fines, fees and penalties collected pursuant to this chapter by a county clerk acting as agent of the commissioner, but shall not include any state or local sales or compensating use taxes imposed under or pursuant to the authority of articles twenty-eight and twenty-nine of the tax law and collected by such clerk on behalf of the commissioner of taxation and finance. The retention percentage shall be 10.75 percent.

3-a. In addition to the fees retained pursuant to subdivision three of this section, each county clerk acting as the agent of the commissioner pursuant to subdivision one of this section shall retain a percentage of "enhanced internet and electronic partner revenue" collected by the commissioner. For the purposes of this subdivision, "enhanced internet and electronic partner revenue" shall mean the amount of gross receipts attributable to all transactions conducted on the internet by residents of such county and by designated partners of the department on behalf of such residents for the current calendar year. The commissioner shall certify the amounts to be retained by each county clerk pursuant to this subdivision. The retention percentage shall be 10.75 percent.

4. The commissioner may prescribe minimum staff requirements to be

maintained by county clerks for the performance of their duties as agents of the commissioner. No such staff requirements shall require expenditures in excess of the amount of the percentage of gross receipts retained by any county or county clerk pursuant to subdivision three of this section.

5. For registration renewals pursuant to subdivision two of section four hundred three of this chapter, the commissioner shall reimburse each county clerk the actual postage expense incurred by such clerk in mailing a number plate or plates to a registrant, provided that mailing of such number plate or plates has been done in a manner prescribed by the commissioner.

§ 206. Deputization of agents. The commissioner may, in his discretion, deputize any person to act for the commissioner, subject to rules and limitations prescribed by him, for the purpose of issuing or renewing licenses, registrations and number plates. Any such license, registration or number plate so issued or renewed shall be subject to cancellation by the commissioner, if improperly issued. Such deputies shall not receive compensation from the state under this section, and no fee in addition to the fees prescribed by law shall be charged any applicant unless such fee has been approved by the commissioner. The commissioner may, without a hearing, revoke at any time the authority granted to any person under this section.

§ 207. Uniform traffic summons and complaint. 1. Except as otherwise provided, the commissioner shall be authorized to prescribe the form of summons and complaint in all cases involving a violation of any provision of this chapter, including section twelve hundred three-c, or of any provision of the tax law or of the transportation law regulating traffic, or of any ordinance, rule or regulation relating to traffic, and to establish procedures for proper administrative controls over the disposition thereof. The commissioner is not authorized to prescribe the form of summons and complaint for parking, stopping or standing violations or a violation of article forty-seven or forty-eight of this

chapter.

2. The chief executive officer of each local police force including county, town, city and village police departments, sheriffs, and the superintendent of state police shall prepare or cause to be prepared such records and reports as may be prescribed hereunder.

3. The commissioner shall have the power from time to time to adopt such rules and regulations as may be necessary to accomplish the purposes and enforce the provisions of this section including requirements for reporting by trial courts having jurisdiction over traffic violations.

4. The provisions of this section shall not apply to or supersede any ordinance, rule or regulation heretofore or hereafter made, adopted or prescribed pursuant to law in any city having a population of one million or over, and the commissioner may limit the application of any rule or regulation to exclude specified violations based upon conditions or factors making differentiation or separate classification necessary or desirable.

5. Any person who disposes of any uniform traffic summons and complaint in any manner other than that prescribed by law shall be guilty of a misdemeanor.

§ 208. Affirmation of complaints. Where a traffic summons has been served by a police officer, police cadet or bridge and tunnel officers employed by the triborough bridge and tunnel authority in cases of violations of any provision of this chapter, except title eleven, or of any ordinance, rule or regulation enacted pursuant thereto or pursuant to any other law relating to traffic, any chief, deputy chief, captain, lieutenant or acting lieutenant, or sergeant or acting sergeant of a police department, or any sheriff, undersheriff, chief deputy, deputy sergeant or deputy in charge of a road patrol maintained by any sheriff in any county to whom the service of the traffic summons is reported, is hereby authorized to administer to such police officer, police cadet or

bridge and tunnel officer employed by the triborough bridge and tunnel authority all necessary oaths in connection with the execution of the complaint to be presented in court by such police officer, police cadet or bridge and tunnel officer employed by the triborough bridge and tunnel authority in the prosecution of such offense, but a complaint need not be verified provided it shall be affirmed under penalty of perjury.

§ 209. Bureau of motor vehicles abolished; transfer of functions; officers and employees. The bureau of motor vehicles in the department of taxation and finance is hereby abolished. The functions, powers and duties of the bureau of motor vehicles in the department of taxation and finance are hereby assigned to the department of motor vehicles. Each deputy commissioner in the bureau of motor vehicles in the department of taxation and finance shall continue in office as deputy commissioner in the department of motor vehicles and shall serve during the pleasure of the commissioner. All civil service employees in the existing bureau of motor vehicles in the department of taxation and finance, in service at the time this section takes effect, shall retain their present civil service classification and be transferred to the department of motor vehicles without further examination or classification, and such employees shall perform such duties therein as may be assigned to them by the commissioner.

§ 210. Highway safety powers and duties. The commissioner of motor vehicles shall have power to:

1. Formulate uniform highway safety programs and coordinate the efforts of all interested individuals and agencies engaged in safety-education.

2. Conduct a highway safety and driver training program, in conjunction with any interested public or private agencies, as an aid to the national defense.

§ 211. Continuity of authority. The department of motor vehicles shall be deemed to constitute a continuation of the powers and duties of the bureau of motor vehicles in the department of taxation and finance and not a new authority for the purpose of succession to the rights, powers and duties and obligations hereby assigned to the department.

§ 212. Transfer of records and property. All books, papers and records of the bureau of motor vehicles in the department of taxation and finance shall be transmitted to the department of motor vehicles and the commissioner shall take possession thereof.

§ 213. Terms occurring in contracts and other documents. Whenever the bureau of motor vehicles in the department of taxation and finance is referred to or designated in any contract or document, such reference or designation shall be deemed to mean and refer to the department of motor vehicles.

§ 214. Proof of mailing of notice or order. The production of a copy of a notice or order issued by the department, together with an electronically-generated record of entry of such order or notice upon the appropriate driver's license or registration file of the department and an affidavit by an employee designated by the commissioner as having responsibility for the issuance of such order or notice issued by the department setting forth the procedure for the issuance and the mailing of such notice or order at the address of such person on file with the department or at the current address provided by the United States postal service shall be presumptive evidence that such notice of suspension, revocation or order was produced and mailed in accordance with such procedures. The foregoing procedure shall not preclude the use of an affidavit of service by mail, a certificate of mailing or proof of certified or registered mail as proof of mailing of any such order or notice.

§ 215. Rules and regulations. (a) General. Subject to and in conformity with the provisions of the vehicle and traffic law and the constitution and laws of the state, the commissioner may enact, amend and repeal rules and regulations which shall regulate and control the exercise of the powers of the department and the performance of the duties of officers, agents and other employees thereof.

(b) Vehicle equipment. If the commissioner and the attorney general shall determine that any provision of this chapter relating to required vehicle equipment has been preempted by a federal regulation or standard, the commissioner may, in his discretion, promulgate a regulation governing such item or items of equipment, in a manner consistent with such federal regulation or standard. Such regulation, when filed with the secretary of state, shall supersede the provisions of this chapter relating to the same item or items of equipment, provided that such regulation shall only remain in force and effect until thirty days after the next adjournment of a regular session of the legislature provided, however, that the authority to promulgate such regulation shall only be exercised if the federal regulation or standard involved does not take effect at a time when the legislature is in regular session, and the commissioner's regulation is promulgated and takes effect prior to the next ensuing regular session of the legislature.

(c) The commissioner shall determine the degree to which an identification card issued to veterans by the United States department of veterans affairs may be used as proof of name and/or age for the purpose of obtaining a driver's license or non-driver identification card under this chapter.

§ 216 Automotive-medical research division. The commissioner shall establish an automotive-medical research division with such facilities and such expert assistants as are necessary to do medical and engineering research in the field of motor vehicle safety. The commissioner shall from time to time make reports and recommendations to the governor, and the legislature on the findings and studies of the agency. The commissioner shall be empowered to contract with the

department of health for medical research necessary to carry out the purposes of this section, and, subject to the provisions of the state finance law, to take and administer for the state any grant, gift or bequest to be applied, principal or income, or both, for the purposes specified in such grant, to the maintenance and operation of a research program under this section.

§ 216-a. Statistics on driving while intoxicated. 1. The commissioner shall collect and analyze statistical information and data with respect to: (i) the number of persons charged with violating any of the provisions of section eleven hundred ninety-two of this chapter prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs, or the provisions of section eleven hundred ninety-two-a of this chapter prohibiting persons under the age of twenty-one from operating a motor vehicle after having consumed alcohol, or the provisions of section forty-nine-b of the navigation law prohibiting persons under the age of twenty-one from operating a vessel after having consumed alcohol; and (ii) the disposition of such charge and (iii) if a conviction or finding was had thereon, the category of the offense for which such conviction or finding was had, whether it resulted from a plea of guilty or after trial or after a hearing before a hearing officer and the sentence thereon; and (iv) such other information as the commissioner shall deem relevant. Provided, however, that nothing herein shall be deemed to authorize the reporting or collecting of any information relating to the identity of any person so charged, and no such information shall be so reported to or collected by the commissioner except for the purposes of assisting courts or hearing officers in the suspension of licenses pursuant to sections five hundred ten and five hundred fourteen of this chapter or the suspension of operating privileges pursuant to section forty-nine-b of the navigation law, and no such information may be disseminated except to such courts or hearing officers.

2. The commissioner shall from time to time make reports and recommendations to the governor and the legislature based upon the compilation and analysis of the information and data made pursuant to

this section.

§ 217. Record of hearings. At any hearing held by the commissioner, or a person deputized by him to conduct a hearing to determine whether any license or registration issued pursuant to this chapter or any privilege of operating or privilege of operation should be suspended or revoked, a mechanical or electronic recording device may be used for the making of a record of the proceedings.

§ 218. Special classification of vehicles. Notwithstanding any other provision of this chapter, any vehicle or class of vehicles may, by regulation of the commissioner, be added to or exempted from any of the definitions or classifications contained in this chapter, where such addition or exemption is deemed, in his discretion, either necessary, desirable or equitable because of the particular characteristics of such vehicle or class of vehicles; provided, however, that no vehicle which is exempted from registration by any provision of this chapter may be reclassified pursuant to this section to require registration, and no vehicle which is specifically enumerated in schedule F of subdivision seven of section four hundred one of this chapter may be reclassified pursuant to this section to require registration at an increased fee.

§ 219. Interstate compacts. Whenever any provision of this chapter shall provide for or establish a compact or reciprocal recognition of vehicle registrations with another state or states, the governor or commissioner may enter into a written agreement or compact with any state authorized to be a party to such compact or affected by such reciprocal provisions, provided that the conditions and terms of such agreement or compact are consistent with the provisions of this chapter pertaining to such compact or reciprocal recognition of vehicle registrations.

§ 219-a. State membership in a multistate voter list maintenance

organization. 1. Notwithstanding any other provision of law to the contrary, the commissioner is authorized to provide to the state's representative to a multistate voter list maintenance organization, designated under section 5-1001 of the election law, the following information: (a) all name fields; (b) all address fields; (c) DMV ID number; (d) last four digits of the DMV ID holder's social security number; (e) date of birth; (f) current record status; (g) phone number; and (h) email address, provided that the conditions and terms of membership are consistent with the provisions of this chapter and title ten of article five of the election law pertaining to such membership or reciprocal recognition of vehicle registrations.

2. The commissioner shall not knowingly provide any information pursuant to this section of persons who are not citizens.

§ 220. Exemptions for safety equipment. (1) Notwithstanding any other provision of this chapter or other law, whether general, special or local, the commissioner may permit the installation and use of any item of equipment which he, in his discretion, determines will either reduce accidents, injuries and fatalities, or otherwise contribute to highway safety.

(2) Where an exemption is granted pursuant to the provisions of subdivision one, the commissioner may, by regulation, establish standards for the manufacture and use of any equipment for which the exemption is granted.

§ 221. Annual compilation of this chapter. The commissioner shall cause to be published by the department, and make available to the public, an annual paperback compilation of all of the provisions of this chapter. The commissioner shall establish a reasonable fee, chargeable on a per copy basis, sufficient to cover the cost of preparation and distribution of such books.

§ 222. Exemptions for testing, demonstration or experimentation. The

commissioner, upon application of a person, or upon his own application, may grant an exemption from any requirement of this chapter relating to registration or equipment to any designated vehicle for the purpose of testing, demonstration or experimentation. Any such exemption shall be limited to specific areas and times, and such exemptions shall be evidenced by a certificate issued by the commissioner or his designated agent, which certificate shall contain a description of the vehicle, the exemptions granted, and the areas and times to which the exemptions apply. For the purposes of this section, testing, demonstration or experimentation shall be limited to such activities being performed at the request of, or with the consent of a governmental agency. For the purposes of articles six, seven and eight of this chapter, a certificate issued pursuant to this section shall be deemed to be a registration, and all the provisions of articles six, seven and eight of this chapter with regard to proof of financial security at the time of registration and all the penalties found in said articles with respect to the failure to maintain such financial security shall apply to vehicles for which a certificate is issued pursuant to this section.

§ 223. Motor vehicle theft prevention program. 1. The commissioner is hereby authorized and directed to establish a motor vehicle theft prevention program within the department which shall have trained motor vehicle investigators and police officers participating in it.

2. It shall be the duty of such investigators to conduct detailed investigations, in cooperation with law enforcement officials, of those entities which may be possible sources for the disposal of stolen vehicles or major component parts; to determine the reliability of applicants required to be registered under provisions of the vehicle and traffic law; to provide assistance to law enforcement personnel in determining sources of outlets for stolen motor vehicles and stolen motor vehicle parts; to cooperate with law enforcement personnel relative to the investigation of organized motor vehicle theft rings; to examine motor vehicles prior to the issuance of a New York state motor vehicle title at the discretion of the commissioner; and to inspect motor vehicles for which a notice of acquisition is required to be filed

pursuant to section four hundred twenty-nine of this chapter whenever such a vehicle is to be registered for use upon the public highway.

3. The commissioner, in consultation with the commissioner of the division of criminal justice services, shall establish a motor vehicle theft prevention program to be known as the "Watch Your Car Program," which shall include the issuance of official decals to identify motor vehicles that are not normally operated between the hours of 1:00 A.M. and 5:00 A.M. Participation in the program shall be voluntary in nature and shall involve the following:

(a) In the presence of a duly authorized police officer in any law enforcement agency participating in such program, the registered owner of a motor vehicle shall sign an informed consent statement indicating that the motor vehicle registered to such owner is not normally operated between the hours of 1:00 A.M. and 5:00 A.M. The form of such informed consent statement shall be promulgated by the commissioner after consultation with the commissioner of the division of criminal justice services.

(b) (i) Upon signing such informed consent statement, the registered owner shall be issued decals approved by the commissioner and such decals shall be affixed to the owner's vehicle in a conspicuous place as prescribed by the commissioner. The decals shall be issued by the law enforcement agency participating in the program.

(ii) The law enforcement agency issuing the decals shall make a record of the decals issued to each registered owner. Such records shall be maintained by the law enforcement agencies participating in the program and shall be available to the commissioner, to the superintendent of state police, to the commissioner of the division of criminal justice services and to law enforcement agencies.

(c) Informed consent statement forms shall be available at all participating law enforcement agencies throughout the state. The commissioner may accept the format used for the decal and application used by local police officials in municipalities that implemented such programs prior to the effective date of this subdivision.

4. The commissioner shall, no later than January first, nineteen hundred eighty-two, submit to the governor and the legislature a report

on the results and operation of the motor vehicle theft prevention program.

5. The expenses incurred by the commissioner in implementing the motor vehicle theft prevention program created by this section shall be funded from revenues collected pursuant to sections four hundred fifteen-a, four hundred twenty-one, subdivision five of section four hundred twenty-three-a and four hundred thirty of this chapter.

§ 223-a. School bus motorist education program. The commissioner shall, in conjunction with the governor's traffic safety committee, the departments of education and transportation, the division of state police, and the state comprehensive school bus driver safety training council, design and implement a public education program to educate motorists of the dangers of passing a school bus in violation of section eleven hundred seventy-four of this chapter, to reduce the number of such incidents, and to promote school bus safety.

§ 224. Simplification of business application procedures and administration. 1. For the purposes of reducing the amount of paperwork required of businesses which are licensed or registered pursuant to this chapter, and to provide for the most efficient servicing of such businesses, the commissioner shall, to the extent administratively feasible, provide that: (i) applications for licenses or registrations, or renewals thereof, to be issued pursuant to sections three hundred three, three hundred ninety-eight-c, four hundred fifteen and four hundred fifteen-a of this chapter simultaneously made by the same entity shall be made on one application, (ii) all such licenses and registrations issued to the same entity shall expire at the same time, and (iii) the expiration dates for all licensees and registrants subject to such sections shall be staggered as effectively as possible over a two year period.

2. The provisions of the sections set forth in subdivision one of this section shall be construed to achieve the purposes enunciated in that

subdivision.

3. Notwithstanding any other provisions of this chapter, only one original application fee shall be required of the same applicant who simultaneously makes application for the issuance of more than one license or registration pursuant to section three hundred three, three hundred ninety-eight-c, four hundred fifteen or four hundred fifteen-a of this chapter. Such fee shall be the highest application fee for any one of the licenses or registrations being applied for.

§ 224-a. Establishment of the highway construction and maintenance safety education program. 1. The commissioner of transportation, after consultation with the commissioner of the department, shall promulgate rules and regulations regarding the establishment and implementation of a highway construction and maintenance safety education program. The highway construction and maintenance safety education program shall be established for the purpose of providing education, advocacy and increased awareness of laws pertaining to protecting the safety of highway construction and maintenance workers. The program shall provide funding for activities such as public service announcements, public education and awareness campaigns, distribution of literature, and any other activities that are consistent with such purposes.

2. It shall be the duty of the commissioner of transportation to make a biennial report to the governor, the temporary president of the senate and the speaker of the assembly which shall be due on the first of April every second year following implementation of the program and shall include an assessment of the effectiveness of the program, recommendations for expanding or improving the program and any problems or other matters related to the administration of the program.

ARTICLE 2-A

ADJUDICATION OF TRAFFIC INFRACTIONS

Section 225. Jurisdiction; transfer of cases; hearing officers; regulations.

226. Summons; answer.
227. Hearings; determinations.
228. Administrative review.

§ 225. Jurisdiction; transfer of cases; hearing officers; regulations. 1. Notwithstanding any inconsistent provision of law, all violations of this chapter or of a law, ordinance, order, rule or regulation relating to traffic, except parking, standing, stopping or pedestrian offenses, which occur within a city having a population of one million or more in which administrative tribunals have heretofore, been established, and which are classified as traffic infractions, may be heard and determined pursuant to the regulations of the commissioner as provided in this article. Whenever a crime and a traffic infraction arise out of the same transaction or occurrence, a charge alleging both offenses may be made returnable before the court having jurisdiction over the crime. Nothing herein provided shall be construed to prevent a court, having jurisdiction over a criminal charge relating to traffic or a traffic infraction, from lawfully entering a judgment of conviction, whether or not based on a plea of guilty, for any offense classified as a traffic infraction.

2. Whenever the commissioner or his deputy determines that a charge alleges an offense other than a traffic infraction, he shall, and where a charge cannot be disposed of because of the non-appearance of the motorist, he may notify the court of appropriate jurisdiction and request removal of the case to such court. Prior notice of such request need not be given the motorist involved. Upon receipt of such request, the court may grant an order transferring such case, provided that the date on which the charge or charges must be answered before the court shall not be earlier than the return date which appears on the complaint alleging the offense. Notice of transfer of cases involving other than traffic infractions shall be mailed to the motorist at the address appearing on such complaint not less than ten days before the date of appearance indicated on his summons and not less than fifteen days before his scheduled appearance in such court. Notice of transfer of cases which cannot be disposed of because of the non-appearance of the

motorist shall be mailed to the motorist at the address appearing on such complaint not less than fifteen days before his scheduled appearance in such court. Such mailing shall constitute due notice of such transfer. Thereafter, such case shall be treated in the same manner as if the complaint had initially been filed with such court.

3. The commissioner shall appoint such hearing officers as shall be necessary to hear and determine cases as provided by this article and may promulgate such regulations as shall be necessary or desirable to effect the purposes of this article. Such regulations may provide for a schedule of monetary penalties to be used where an answer is made, other than before a hearing officer, admitting a charge, provided that no such penalty shall exceed the maximum fine established by law for the traffic infraction involved.

§ 226. Summons; answer. 1. Summons. The commissioner shall be authorized to prescribe by regulation the form for the summons and complaint to be used for all traffic violations specified in subdivision one of section two hundred twenty-five of this chapter, and to establish procedures for proper administrative controls over the disposition thereof. Such summons may be the same as the uniform summons provided for in section two hundred seven of this chapter. The chief executive officer of each local police force which is required to use the summons and complaint provided for herein shall prepare or cause to be prepared such records and reports as may be prescribed by the commissioner.

1-a. Return date notifications. The commissioner shall notify any person who receives a summons and complaint for any traffic violation specified in subdivision one of section two hundred twenty-five of this article of the time and place of the return date for such summons, no later than one week prior to such return date. The commissioner shall send such notification by first class mail at the address of such person on file with the department or at the current address provided by the United States postal service in accordance with section two hundred fourteen of this title.

2. Answer. (a) General. Any person who receives a summons for a violation described in subdivision one of section two hundred twenty-five of this chapter shall answer such summons by personally appearing on the return date at the time and place specified therein. Provided, however, that an answer may be made as provided in paragraphs (b) and (c) of this subdivision and the regulations of the commissioner.

(b) Answer by mail -- admitting charge. If a person charged with the violation admits to the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner and forward such form and summons, together with the appropriate part of his license, if required by the commissioner's regulations, to the office of the department specified on such summons. If a schedule of penalties for violations has been established, and such schedule appears on the answer form, a check or money order in the amount of the penalty for the violation charged if included in such schedule, must also be submitted with such answer. Unless permitted by the regulations of the commissioner, such plea may not be made by mail for any offense for which suspension or revocation of a driver's license is required by law, or for any other offense if the conviction thereof would result in a hearing pursuant to a highway safety program established under the provisions of subdivision three of section five hundred ten of this chapter.

(c) Answer by mail - denial of charges. If the person charged with the violation denies part or all of the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner for that purpose and forward such form and summons to the office of the department specified on such summons. Upon receipt, such answer shall be entered and a hearing date established by the department. The department shall notify such person by return mail of the date of such hearing.

3. Failure to answer or appear; entry of order. (a) If the person charged with the violation shall fail to answer the summons as provided herein, the commissioner may suspend such person's license or driving privilege or, if the charge involves a violation of section three hundred eighty-five, section four hundred one or section five hundred eleven-a of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or the privilege of operation

of any motor vehicle owned by such registrant may be suspended, until such person shall answer as provided in subdivision two of this section, or has paid or has entered into an installment payment plan to pay the fine associated with a conviction entered as a result of the failure to appear in response to such summons, or the defendant has been acquitted of the charge that led to the suspension or such charge was otherwise dismissed. If a person shall fail to appear at a hearing, when such is provided for pursuant to this section, such person's license, or registration or privilege of operating or of operation, as appropriate, may be suspended pending appearance at a subsequent hearing, or the disposition of the charges involved. Any suspension permitted by this subdivision, if already in effect, may be terminated or if not yet in effect, may be withdrawn or withheld, prior to the disposition of the charges involved if such person shall appear and post security in the amount of forty dollars to guarantee his or her appearance at any required hearing. The security posted pursuant to this subdivision shall be returned upon appearance at the scheduled hearing or an adjourned hearing which results in a final disposition of the charge, and otherwise shall be forfeited. If a suspension has been imposed pursuant to this subdivision and the case is subsequently transferred pursuant to subdivision two of section two hundred twenty-five of this article, such suspension shall remain in effect until the person answers the charges in the court to which the case was transferred. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

(b) Failure to answer or appear in accordance with the requirements of this section and any regulations promulgated hereunder shall be deemed an admission to the violation as charged, and an appropriate order may be entered in the department's records, and a fine consistent with the provisions of this chapter and regulations of the commissioner may be imposed by the commissioner or person designated by the commissioner. Prior to entry of an order and imposition of a fine, the commissioner shall notify such person by mail at the address of such person on file with the department or at the current address provided by the United States postal service in accordance with section two hundred fourteen of this title: (i) of the violation charged; (ii) of the impending entry of

such order and fine; (iii) that such order and fine may be filed as a judgment with the county clerk of the county in which the operator or registrant is located; and (iv) that entry of such order and imposition of such fine may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. In no case shall such an order and fine be entered and imposed more than two years after the date of the alleged violation. Upon application in such manner and form as the commissioner shall prescribe an order and fine shall be vacated upon the ground of excusable default.

§ 227. Hearings; determinations. 1. Every hearing for the adjudication of a traffic infraction, as provided by this article, shall be held before a hearing officer appointed by the commissioner. The burden of proof shall be upon the people, and no charge may be established except by clear and convincing evidence. The commissioner may prescribe, by rule or regulation, the procedures for the conduct of such hearings.

2. In any case wherein the people are not ready for the hearing on the scheduled hearing date, the hearing officer may order a dismissal of the charge or the adjournment of the hearing to a subsequent time. In any case wherein the people are not ready for the hearing at an ordered adjourned time and do not provide a minimum of seven days' notice to the department after having been not ready for a hearing on the charge for any reason previously, the charge shall be dismissed unless the hearing officer determines that a substantial traffic safety hazard would result from the dismissal. The commissioner shall promulgate regulations concerning the adjournment of hearings which may permit the dismissal of cases by a hearing officer for reasons not prescribed herein.

3. After due consideration of the evidence and arguments offered in a contested case, the hearing officer shall determine whether the charges have been established. Where the charges have not been established, an order dismissing the charges shall be entered. Where a determination is made that a charge has been established, either in a contested case or in an uncontested case where there is an appearance before a hearing officer, or if an answer admitting the charge otherwise has been

received, an appropriate order shall be entered in the department's records.

4. a. An order entered upon the failure to answer or appear or after the receipt of an answer admitting the charge or where a determination is made that the charge has been established shall be civil in nature, but shall be treated as a conviction for the purposes of this chapter. The commissioner or his designee may include in such order an imposition of any penalty authorized by any provision of this chapter for a conviction of such violation, except that no penalty therefore shall include imprisonment, nor, if monetary, exceed the amount of the fine which could have been imposed had the charge been heard by a court. If the charge involves a violation of section three hundred eighty-five of this chapter, the driver's license or privileges may be suspended pending the payment of any penalty so imposed, or, if the charge involves a violation of section three hundred eighty-five of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or privilege of operation of any motor vehicle owned by such registrant may be suspended pending the payment of any penalty so imposed. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

b. Unpaid fines may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action, and provided that no appeal is pending, the commissioner may file with the county clerk of the county in which the person resides a final order of the commissioner containing the amount of the fine or fines. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. No such civil action shall be commenced nor shall such final order be filed until at least thirty days after the department has posted by ordinary mail to the person at the address of such person on file with the department or at the current address provided by the United States postal service notice of the amount of

such fine or fines and that such fine or fines are due and owing.

* 5. All penalties and forfeited security collected pursuant to the provisions of this article shall be paid to the department of audit and control to the credit of the justice court fund and shall be subject to the applicable provisions of section eighteen hundred three of this chapter. After such audit as shall reasonably be required by the comptroller, such penalties and forfeited security shall be paid quarterly or, in the discretion of the comptroller, monthly, to the appropriate jurisdiction in which the violation occurred in accordance with the provisions of section ninety-nine-a of the state finance law, except that the sum of four dollars for each violation occurring in such jurisdiction for which a complaint has been filed with the administrative tribunal established pursuant to this article shall be retained by the state. Notwithstanding any law to the contrary an additional annual sum of three million dollars collected from fines and assessed to the city of New York, shall be deposited into the general fund. Provided, however, that if the full costs of administering this article shall exceed the amounts received and retained by the state for any period specified by the commissioner, then such additional sums as shall be required to offset such costs shall be retained by the state out of the penalties and forfeited security collected pursuant to this article.

* NB Effective until April 1, 2019

* 5. All penalties and forfeited security collected pursuant to the provisions of this article shall be paid to the department of audit and control to the credit of the justice court fund and shall be subject to the applicable provisions of section eighteen hundred three of this chapter. After such audit as shall reasonably be required by the comptroller, such penalties and forfeited security shall be paid quarterly or, in the discretion of the comptroller, monthly, to the appropriate jurisdiction in which the violation occurred in accordance with the provisions of section ninety-nine-a of the state finance law, except that the sum of four dollars for each violation occurring in such jurisdiction for which a complaint has been filed with the administrative tribunal established pursuant to this article shall be retained by the state. Provided, however, that if the full costs of administering this article shall exceed the amounts received and

retained by the state for any period specified by the commissioner, then such additional sums as shall be required to offset such costs shall be retained by the state out of the penalties and forfeited security collected pursuant to this article.

* NB Effective April 1, 2019

6. Unless a hearing officer shall determine that a substantial traffic safety hazard would result therefrom, he shall, pursuant to the regulations of the commissioner, delay for a period of thirty days the effective date of any suspension or revocation of a drivers license or vehicle registration imposed after a hearing pursuant to this article, unless such suspension was imposed because of the failure to pay a monetary penalty. Provided, however, the commissioner's regulations may provide for the immediate surrender of any item to be suspended or revoked and the issuance of appropriate temporary documentation to be used during such thirty day period.

§ 228. Administrative review. 1. Appeals board. The commissioner shall appoint three or more appeals officers, to serve at his pleasure, and shall select a chairman for each appeals board from the members so appointed. Appeals officers who are not full time employees of the department shall be attorneys admitted to practice in New York state. The commissioner shall assign at least three appeals officers to serve on each appeals board established to hear appeals pursuant to this section. Any appeals officer who is not a full time employee of the department shall receive a per diem at a rate to be fixed by the commissioner, with the approval of the director of the budget, for each day he serves on an appeals board, in addition to all necessary expenses. The commissioner shall also designate such other members of the department as may be necessary to assist an appeals board in carrying out its assigned functions.

2. Right of appeal. (a) Any person who is aggrieved by a determination of a hearing officer may appeal such determination pursuant to the provisions of this article.

(b) Except as otherwise provided in this subdivision, a transcript of

the hearing resulting in the determination appealed from must be submitted on any such appeal.

(c) If the only issue raised on appeal is the appropriateness of the penalty imposed, the appellant, in his discretion, may submit such appeal without a transcript of the hearing. In such event, the decision of the appeals board may be based solely on the appeal papers and the records of the department, and such decision shall not be subject to judicial review.

(d) Where a transcript of the hearing is submitted at the time an appeal is filed, the determination of the appeals board will be subject to judicial review as prescribed in subdivision nine of this section.

3. Appeals boards. Each appeal filed pursuant to this section shall be reviewed by an appeals board, which shall make a determination of such appeal, and shall cause an appropriate order to be entered in the records of the department.

4. Time limitations. No appeal shall be reviewed if it is filed more than thirty days after notice was given of the determination appealed from.

5. Appeal procedures. Any person desiring to file an appeal from an adverse determination pursuant to this section, shall do so in a form and manner provided by the commissioner. The transcript of any hearing which formed the basis for such determination will be reviewed only if it is submitted by the appellant. An appeal shall not be deemed to be finally submitted until the appellant has submitted all forms or documents required to be submitted by the commissioner or this section.

6. Transcript of hearings. Transcripts of the record of any hearing may be obtained at the cost to the department, if prepared by the department, or at the rate specified in the contract between the department and the contractor, if prepared by a private contractor. The amount paid at such cost or rate by a person convicted who submits, upon an appeal from the determination of guilt, or upon such appeal and upon a review pursuant to the provisions of article seventy-eight of the civil practice law and rules, a transcript of the hearing or hearings

which resulted in such determination, shall be refunded by the department upon a final determination by the appeals board, dismissing the charges, or if the charges were sustained by the appeals board, upon a final determination by the court, dismissing the charges.

7. Fees. The fee for filing an appeal shall be ten dollars. No appeal shall be accepted unless the required fee has been paid. Such fees shall be paid by the appeals board to the department of audit and control to the credit of the justice court fund. After such audit as shall be required by the comptroller, such fees shall be credited to the general fund of the state.

8. Stays pending appeal. Whenever a determination has not been made within thirty days after an appeal has been finally submitted, a stay of execution will be deemed granted by operation of law, and the license, certificate, permit or privilege affected will be automatically restored pending final determination.

9. Judicial review. (a) No determination of a hearing officer which is appealable under the provisions of this section shall be reviewed in any court unless an appeal has been filed and determined in accordance with this section.

(b) A determination of the appeals board in any case where a transcript of the hearing has been submitted shall be subject to review pursuant to the provisions of article seventy-eight of the civil practice law and rules. Provided, however, a statement by the hearing officer at the conclusion of the hearing indicating that the charges have been sustained and announcing the penalty imposed, together with a summary of the reasons the appeal was denied by the appeals board, shall constitute sufficient findings for the purpose of such review.

ARTICLE 2-B

ADJUDICATION OF PARKING INFRACTIONS

Section 235. Jurisdiction.
235*2. Jurisdiction.
235*3. Jurisdiction.

236. Creation, personnel.
237. Functions, powers and duties of parking violations bureaus.
237-a. Functions, powers and duties of traffic camera violations bureaus.
238. Notice of violation.
239. Ownership and operation of vehicles; liability.
240. Hearings, notice and conduct.
241. Final determinations, judgments.
241-a. Complaint procedure for satisfied or wrongfully imposed fine or penalty.
241-b. Muni-meter receipts; affirmative defense.
242. Administrative review.
243. Judicial review.
244. Separability.

§ 235. Jurisdiction. 1. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any city which heretofore or hereafter is authorized to establish an administrative tribunal: (a) to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations, or (b) to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter, or (c) to adjudicate the liability of owners for violations of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or (d) to adjudicate the liability of owners for violations of bus lane restrictions as defined by article

twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter, or (e) to adjudicate the liability of owners for violations of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or (f) to adjudicate the liability of owners for violations of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter, or (g) to adjudicate the liability of owners for violations of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter, or (h) to adjudicate the liability of owners for violations of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted

maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or (i) to adjudicate the liability of owners for violations of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, such tribunal and the rules and regulations pertaining thereto shall be constituted in substantial conformance with the following sections.

1-a. (a) Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any county, city, village, or town which heretofore or hereafter adopts a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter, such county, city, village, or town shall also establish, by local law or ordinance, an administrative tribunal to adjudicate the liability of owners for violations of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter. Such tribunal and the rules and regulations pertaining thereto shall be constituted in substantial conformance with the following sections and the applicable provisions of article twenty-nine of this chapter. Provided that a county, city, village, or town shall establish such tribunal (i) no later than September first, two thousand twenty-seven where such county, city, village, or town has established

and implemented the aforementioned demonstration program prior to the date upon which this subdivision takes effect, and (ii) no later than the date upon which such county, city, village, or town establishes and implements the aforementioned demonstration program after the date upon which this subdivision takes effect.

(b) Provided, however, that the provisions of paragraph (a) of this subdivision requiring the establishment of an administrative tribunal shall not apply to the city of New York wherein violations are adjudicated by the New York city parking violations bureau, and shall not apply to any county, city, village, or town in which such notices of liability are required to be adjudicated within a traffic violations bureau established pursuant to section three hundred seventy of the general municipal law, court having jurisdiction, or parking violations bureau pursuant to the local law or ordinance imposing such monetary liability in accordance with article twenty-nine of this chapter and such traffic violations bureau or parking violations bureau is adjudicating such notices of liability or the chief administrative judge or their designee approves the plan to adjudicate such notices of liability in such court having jurisdiction.

2. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, any city with a population in excess of one hundred thousand persons according to the nineteen hundred eighty United States census hereinafter referred to as a city shall provide notice of parking violations and of the imposition of additional penalties whenever the person who is liable therefor fails to respond to the parking ticket in the manner designated thereon. Such notice shall be in substantial conformance with the following provisions:

a. Notice. (1) Whenever a city issues a notice of violation for a parking violation, it shall be served in the manner prescribed by subdivision two of section two hundred thirty-eight of this article.

(2) Whenever a person has been issued a notice of violation for a parking violation and has not responded in the manner described in the notice, a city shall give the owner a second notice of the violation by regular first class mail: (i) within forty days of issuance of the first

notice of violation for a parking violation where the vehicle is a vehicle registered in this state; or (ii) within forty days of the receipt by such city of the name and address of the owner of the vehicle where the vehicle is a vehicle registered in any other state. Such second notice shall include, but not be limited to, the following information:

(A) that the owner has a period of twenty days from issuance of the second notice in which to respond to the notice of violation for a parking violation;

(B) that failure to respond to the notice of violation for a parking violation may result in the suspension and non-renewal of the owner's registration;

(C) that failure to respond to the notice of violation for a parking violation may subject the owner to additional penalties as provided in paragraph b of this subdivision;

(D) that failure to respond to the notice of violation for a parking violation shall subject the owner to a default judgment as provided in paragraph c of this subdivision and the additional penalties imposed upon parking violations pursuant to paragraph b of this subdivision; and

(E) that submission of a plea of guilty to the parking violation makes the owner liable for payment of the stated fine and additional penalties imposed pursuant to paragraph b of this subdivision and the mandatory surcharge of fifteen dollars imposed upon parking violations pursuant to section eighteen hundred nine-a of this chapter.

b. Additional penalties. (1) For the purposes of this paragraph, each locality shall determine an initial response date of not less than eight days nor more than thirty days, after which time a penalty may be imposed. The liability for such initial penalty shall commence on the date following the initial response date.

(2) Failure to respond to a notice of violation for a parking violation by the initial response date may result in the liability for a penalty in an amount of the fine indicated on the notice of violation for a parking violation; where a city has given a second notice pursuant to paragraph a of this subdivision, the following schedule of additional penalties may apply:

(A) failure to respond to a notice of violation for a parking

violation by the initial response date may result in the liability for an additional penalty not to exceed ten dollars or, if the first penalty assessed by a city does not exceed five dollars, such city may assess an additional penalty within thirty-one to seventy-five days not to exceed ten dollars; and

(B) where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within seventy-five days may result in the liability, commencing on the seventy-sixth day, for an additional penalty not to exceed twenty dollars.

(3) Where the additional penalty schedule set forth in subparagraph two of this paragraph, as interpreted in 9 New York Code of Rules and Regulations Part 6180, has not been implemented by a city and is not in effect in such city on or before January first, nineteen hundred ninety-three, the provisions of this paragraph shall not apply. For the purposes of this subdivision, the provisions of this paragraph shall not be considered to have been implemented and in effect unless the penalty schedule contained herein shall have been applied to parking violations issued in such city on or before January first, nineteen hundred ninety-three.

b-1. Alternate additional penalty schedule. In any city in which the schedule of penalties contained in subparagraph two of paragraph b of this subdivision, as interpreted in 9 New York Code of Rules and Regulations Part 6180, has not been implemented and was not in effect on or before January first, nineteen hundred ninety-three, the provisions of this paragraph shall only apply upon enactment of a local law containing the penalty schedule provided in this paragraph prior to March 28, 1993. Following the enactment of such a local law, such city may elect to impose the additional penalties set forth in subparagraphs one and two of this paragraph for failure to respond to a notice of violation for a parking violation in accordance with this paragraph. In the event that no such local law was enacted prior to March 28, 1993, the alternate additional penalty schedule set forth in paragraph b-2 of this subdivision shall apply.

(1) Failure to respond to a notice of violation for a parking violation within thirty days shall result in liability, commencing on

the thirty-first day, for an additional penalty in an amount not to exceed ten dollars, indicated on the notice of violation for a parking violation; where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within forty-five days may result in liability, commencing on the forty-sixth day, for the penalty prescribed above for failure to respond within thirty days and an additional penalty not to exceed twenty dollars; and where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within seventy-five days may result in liability, commencing on the seventy-sixth day, for the penalties prescribed above for failure to respond within thirty days and for failure to respond within forty-five days and an additional penalty not to exceed thirty dollars.

(2) Notwithstanding the foregoing schedule of alternative additional penalties, if an owner makes a plea or appears within twenty days after issuance of a second notice of violation in accordance with paragraph a of this subdivision, or prior to such mailing, such additional penalty shall not exceed ten dollars.

b-2. Alternate additional penalty schedule. In any city in which the schedule of penalties contained in paragraph b of this subdivision, as interpreted in 9 New York Code of Rules and Regulations Part 6180, has not been implemented and was not in effect on or before January first, nineteen hundred ninety-three and which has not enacted a local law pursuant to paragraph b-1 of this subdivision prior to March 28, 1993, the following alternate additional penalty schedule shall apply:

(1) Failure to respond to a notice of violation for a parking violation within eight days may result in the liability, commencing on the ninth day, for an additional penalty in an amount not to exceed five dollars;

(2) Failure to respond to a notice of violation for a parking violation within thirty days may result in the liability, commencing on the thirty-first day, for the penalty prescribed above for failure to respond within eight days and an additional penalty not to exceed ten dollars or, if the first penalty assessed by the city does not exceed five dollars, such city may assess an additional penalty within

thirty-one to seventy-five days not to exceed ten dollars;

(3) Where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within seventy-five days may result in the liability, commencing on the seventy-sixth day, for the penalties prescribed above for failure to respond within eight days and for failure to respond within thirty days and an additional penalty not to exceed twenty dollars; and

(4) Notwithstanding the foregoing schedule of alternate penalties, if an owner makes a plea or appears within twenty days after issuance of a second notice of violation in accordance with paragraph a of this subdivision, or prior to such mailing, such additional penalty shall not exceed five dollars.

c. Default judgment. Where a city has given notice pursuant to paragraph a of this subdivision, failure to respond to a notice of violation for a parking violation within ninety days shall be deemed an admission of liability and shall subject the owner to a default judgment being entered thereon in an amount not greater than the amount of the original fine and accrued penalties plus any applicable surcharges. Such default shall be reported to the department which department shall cause a suspension and non-renewal of the owner's registration pursuant to the provisions of subdivision four-c of section five hundred ten of this chapter.

3. Nothing set forth in this article shall a. be construed to authorize the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof to comply with any provision of law, rule or regulation through the installation and operation of a photo enforcement device or system, except as otherwise explicitly authorized by article twenty-four, twenty-nine or thirty of this chapter, by section two thousand nine hundred eighty-five of the public authorities law, or by sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, nor b. be construed to grant any municipality the authority to establish by local law, ordinance, order, rule, regulation, resolution or any other means, an administrative tribunal to hear and determine complaints of traffic

infractions or jurisdiction to adjudicate any liability set forth in subdivision one of this section except for the adjudication of liability by a traffic camera violations bureau as authorized pursuant to subdivision one of section two hundred thirty-seven-a of this article.

§ 236. Creation, personnel. 1. Creation. In any city as hereinbefore or hereafter authorized such tribunal when created shall be known as the parking violations bureau and shall have jurisdiction of traffic infractions which constitute a parking violation and, where authorized: (a) to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter, or (b) to adjudicate the liability of owners for violations of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or (c) to adjudicate the liability of owners for violations of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter, or (d) to adjudicate the liability of owners for violations of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public

authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or (e) to adjudicate the liability of owners for violations of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter, or (f) to adjudicate the liability of owners for violations of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter, or (g) to adjudicate the liability of owners for violations of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or (h) to adjudicate the liability of owners for violations of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter. Such tribunal, except in a city with a population of one million or more, shall also have jurisdiction of abandoned vehicle violations. For the

purposes of this article, a parking violation is the violation of any law, rule or regulation providing for or regulating the parking, stopping or standing of a vehicle. In addition for purposes of this article, "commissioner" shall mean and include the commissioner of traffic of the city or an official possessing authority as such a commissioner.

1-a. Creation; traffic camera violations bureau. Notwithstanding the provisions of subdivision one of this section, in any county, city, village, or town as hereinbefore or hereafter required to establish a tribunal pursuant to subdivision one-a of section two hundred thirty-five of this article, such tribunal when created shall be known as the traffic camera violations bureau and shall have jurisdiction to adjudicate the liability of owners for violations of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter.

2. Personnel. a. The head of any such bureau established pursuant to subdivisions one and one-a of this section shall be the director, who shall be appointed by the commissioner. The director may exercise or delegate any of the functions, powers and duties conferred upon the director or the bureau by the commissioner to any qualified officer or employee of the bureau.

b. The commissioner may appoint such number of deputy directors as the commissioner shall deem necessary, but in no event to exceed four and may employ such officers and employees as may be required to perform the work of the bureau, within the amounts available therefor by appropriation.

c. The commissioner shall appoint supervising hearing examiners not to

exceed six in number and senior hearing examiners, not to exceed six in number. Every supervising hearing examiner shall have been admitted to the practice of law in the state for at least seven years and every senior hearing examiner for at least six years. The duties of each supervising hearing examiner and senior hearing examiner shall include, but not be limited to: (1) presiding at hearings for the adjudication of charges of parking violations and/or, as applicable, the liability of owners as authorized pursuant to section two hundred thirty-seven and subdivision one of section two hundred thirty-seven-a of this article; (2) the supervision and administration of the work of the bureau; and (3) membership on the appeals board of the bureau, as herein provided.

d. The commissioner shall appoint hearing examiners who shall preside at hearings for the adjudication of charges of parking violations and/or, as applicable, the liability of owners as authorized pursuant to section two hundred thirty-seven and subdivision one of section two hundred thirty-seven-a of this article. Hearing examiners shall be appointed and shall serve for such number of sessions as may be determined by the commissioner and shall receive therefor, such remuneration as may be fixed. Such hearing examiners shall not be considered employees of the county, city, village, or town in which the administrative tribunal has been established. Every hearing examiner shall have been admitted to the practice of law in this state for a period of at least five years, except in cities having a population of one million or more persons where they shall have been admitted to such practice for a period of at least three years. Hearing examiners shall be appointed from a list of eligible candidates who have satisfied the standards established by a duly constituted committee of the bar association of the county in which the city, village, or town is located, or the association of the bar of that city.

2-a. Notwithstanding any other provision of law, in cities with a population of one million or more, for purposes of this article a parking violation shall include a violation of section eleven hundred seventy-five of this chapter, provided that notice to the operator of the vehicle is provided in like manner as any other violation under this article.

3. Notwithstanding any inconsistent provision of any general, special or local law to the contrary, the city of Rochester may provide by local law for the administrative adjudication in the parking violations bureau of the city of Rochester of violations of article seven of the agriculture and markets law or of any local law or ordinance adopted pursuant thereto relating to the licensing, identification and control of dogs. Such violations shall be heard and determined in the same manner as charges of parking violations and a person charged with any such violation shall have all the rights to a hearing, administrative adjudication and judicial review which a person charged with a parking violation has. The parking violations bureau shall have all the functions, powers and duties with respect to such violations as are granted with respect to parking violations. Such violations shall be punishable by a civil penalty which shall not exceed the amounts set out in article seven of the agriculture and markets law. All moneys collected shall be the property of the city of Rochester.

4. Notwithstanding any inconsistent provision of any general, special or local law to the contrary, the city of Buffalo may provide by local law for the administrative adjudication in the parking violations bureau of the city of Buffalo of violations of the city's ordinances relating to the maintenance and utilization of streets and sidewalks in the city of Buffalo. Such violations shall be heard and determined in the same manner as charges of parking violations and a person charged with any such violation shall have all the rights to a hearing, administrative adjudication and judicial review which a person charged with a parking violation has. The parking violations bureau shall have all the functions, powers and duties with respect to such violations as are granted with respect to parking violations. Such violations shall be punishable by a civil penalty. All moneys collected shall be the property of the city of Buffalo.

5. Release of an illegally parked vehicle. a. A parking violations bureau of a city with a population of one million or more persons may impose vehicle release penalties in accordance with the provisions of paragraph b of this subdivision, provided that the commissioner of

transportation of such city has established a procedure for the towing and impoundment of illegally parked vehicles which permits the release, at the site of the underlying parking violation, of an illegally parked vehicle which has been hooked to a tow truck in preparation for towing from such site if:

(1) the owner or other person lawfully entitled to the possession of such vehicle appears and requests the release of such vehicle before the tow truck is in motion,

(2) such owner or other person has a current valid driver's license,

(3) such owner or other person presents either a registration card or title for the vehicle, and

(4) such owner or other person consents, in writing, to the imposition of a vehicle release penalty for the underlying parking violation in accordance with paragraph b of this subdivision.

b. Where a vehicle that is illegally parked is released from a tow truck under the circumstances described in paragraph a of this subdivision, a vehicle release penalty, in an amount which shall not exceed one-half of the fee charged by the department of transportation of such city for the towing of illegally parked vehicles shall, upon a plea of guilty, a final determination sustaining the charges or upon default, be added to the amount of fines and penalties imposed for the underlying parking violation. The provisions of subdivision two of section two hundred thirty-seven of this article that limit the amount of monetary penalties which may be imposed for a parking violation shall not apply to such vehicle release penalty. In no event shall a vehicle release penalty be imposed pursuant to this subdivision if the underlying parking violation is dismissed. The parking violations bureau of such city may prescribe penalties for non-payment of such vehicle release penalty which shall be consistent with section two hundred thirty-five of this article.

§ 237. Functions, powers and duties of parking violations bureaus. The parking violations bureau shall have the following functions, powers and duties:

1. To accept pleas to, and to hear and determine, charges of parking violations and, except in a city with a population of one million or more, abandoned vehicle violations;

2. To provide for penalties other than imprisonment for (a) parking violations in accordance with a schedule of monetary fines and penalties, provided however, that monetary penalties shall not exceed fifty dollars for each parking violation other than (i) in a city with a population of one million or more, violations committed in spaces where stopping or standing is prohibited for which monetary penalties shall not exceed one hundred dollars and, (ii) handicapped parking violations for which monetary penalties shall not exceed one hundred fifty dollars; and (b) abandoned vehicle violations, except in a city with a population of one million or more, provided however, that monetary penalties shall not be less than two hundred fifty dollars nor more than one thousand dollars for each abandoned vehicle violation; and (c) a city with a population of one million or more may impose a monetary penalty of up to two hundred fifty dollars for a first offense and up to five hundred dollars for subsequent offenses within a six month period for tractor-trailer combinations, tractors, truck trailers and semi-trailers parked overnight on streets in residential neighborhoods;

3. To adopt rules and regulations not inconsistent with any applicable provision of law to carry out the purposes of this article, including but not limited to rules and regulations prescribing the internal procedures and organization of the bureau, the manner and time of entering pleas, the conduct of hearings, and the amount and manner of payment of penalties;

4. To issue subpoenas to compel the attendance of persons to give testimony at hearings and to compel the production of relevant books, papers and other things;

5. To enter judgments and enforce them, without court proceedings, in the same manner as the enforcement of money judgments in civil actions in any court of competent jurisdiction or any other place provided for the entry of civil judgment within the state of New York;

6. To compile and maintain complete and accurate records relating to all charges and dispositions and to prepare complete and accurate transcripts of all hearings conducted by the bureau and to furnish such transcripts to the person charged at said person's own expense upon timely request, and upon said person complying with the regulations of the bureau;

7. To remit to the finance administrator, or other appropriate finance officer, on or before the fifteenth day of each month, all monetary penalties or fees received by the bureau during the prior calendar month, along with a statement thereof, and, at the same time, to file duplicate copies of such statement with the comptroller;

8. To answer within a reasonable period of time all relevant and reasonable inquiries made by a person charged with a parking violation or his attorney concerning the notice of violation served on that person. The bureau must also furnish within a reasonable period of time to the person charged on his request, and upon complying with the regulations of the bureau, a copy of the original notice of violation including all information contained thereon. Failure by the bureau to comply with the provisions of this subdivision or any part of the provisions of this subdivision, within forty-five days of such inquiry, forwarded to the bureau by certified or registered mail, return receipt requested, will result, upon the request of the person charged, in an automatic dismissal of all charges relating to and only to that notice of violation to which the inquiry was made;

9. To prepare and issue a notice of violation in blank to members of the police department, the fire department, the traffic department and to other officers as the bureau by regulation shall determine. The notice of violation or duplicate thereof, when filled in and sworn to or affirmed by such designated officers, and served as provided in this article, shall constitute notice of the parking violation charged.

* 10. To adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter or

section eleven hundred eleven-b of this chapter as added by section sixteen of the chapter of the laws of two thousand nine which amended this subdivision, if authorized by local law adopted pursuant to subdivision (a) of such section eleven hundred eleven-a or pursuant to subdivision (a) of such section eleven hundred eleven-b as added by section sixteen of the chapter of the laws of two thousand nine which amended this subdivision;

* NB Effective until December 1, 2027

* 10. To adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-b of this chapter as added by section sixteen of the chapter of the laws of two thousand nine which added this subdivision, if authorized by local law adopted pursuant to subdivision (a) of such section eleven hundred eleven-b as added by section sixteen of the chapter of the laws of two thousand nine which added this subdivision.

* NB Effective December 1, 2027

* NB Repealed December 1, 2029

* 11. To adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty;

* NB Effective until July 1, 2028

* 11. To adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty;

* NB Effective July 1, 2028

* 12. To adjudicate liability of owners in accordance with section eleven hundred eleven-c of this chapter for violations of bus lane restrictions as defined in such section;

* NB Repealed July 1, 2028

* 13. To adjudicate the liability of owners for violations of

subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-b of this chapter.

* NB Repealed July 1, 2030

* 14. To adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-d of this chapter, if authorized by local law adopted pursuant to subdivision (a) of such section eleven hundred eleven-d.

* NB Repealed December 1, 2029

* 15. To adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-e of this chapter, if authorized by local law adopted pursuant to subdivision (a) of such section eleven hundred eleven-e.

* NB Repealed December 1, 2029

* 16. To adjudicate the liability of owners for violations of section eleven hundred seventy-four of this chapter in accordance with section eleven hundred seventy-four-a of this chapter, if authorized by local law adopted pursuant to subdivision (a) of such section eleven hundred seventy-four-a.

* NB Effective September 5, 2019 and Repealed December 1, 2029

* 16. To adjudicate the liability of owners for violations of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-d of this chapter.

* NB Effective September 6, 2019 and Repealed September 6, 2024

§ 237-a. Functions, powers and duties of traffic camera violations bureaus. The traffic camera violations bureau shall have the following functions, powers and duties:

1. To hear and determine the liability of owners for violations of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter

imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter;

2. To provide for penalties in accordance with a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter;

3. To adopt rules and regulations not inconsistent with any applicable provision of law to carry out the purposes of this article, including but not limited to rules and regulations prescribing the internal procedures and organization of the bureau, the manner and time of entering pleas, the conduct of hearings, and the amount and manner of payment of penalties;

4. To issue subpoenas to compel the attendance of persons to give testimony at hearings and to compel the production of relevant books, papers and other things;

5. To enter judgments and enforce them, without court proceedings, in the same manner as the enforcement of money judgments in civil actions in any court of competent jurisdiction or any other place provided for the entry of civil judgment within the state of New York;

6. To compile and maintain complete and accurate records relating to all notices of liability and dispositions and to prepare complete and accurate transcripts of all hearings conducted by the bureau and to furnish such transcripts to the person issued the notice of liability at said person's own expense upon timely request, and upon said person complying with the regulations of the bureau;

7. To remit to the chief financial officer of the county, city, town,

or village, on or before the fifteenth day of each month, all monetary penalties or fees received by the bureau during the prior calendar month, along with a statement thereof, and, at the same time, to file duplicate copies of such statement with the comptroller; and

8. To answer within a reasonable period of time all relevant and reasonable inquiries made by a person issued a notice of liability or such person's attorney concerning the notice of liability issued to that person. The bureau must also furnish within a reasonable period of time to the person issued a notice of liability, on such person's request and upon complying with the regulations of the bureau, a copy of the original notice of liability including all information contained thereon. Failure by the bureau to comply with the provisions of this subdivision or any part of the provisions of this subdivision, within forty-five days of such inquiry, forwarded to the bureau by certified or registered mail, return receipt requested, will result, upon the request of the person issued the notice of liability, in an automatic dismissal of all liability relating to and only to that notice of liability to which the inquiry was made.

§ 238. Notice of violation. 1. The notice of violation shall contain information advising the person charged of the manner and the time in which he may plead either guilty or not guilty to the violation alleged in the notice. Such notice of violation shall also contain a warning to advise the person charged that failure to plead in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon. The form and wording of the notice of violation shall be prescribed by the director. A duplicate of each notice of violation shall be served on the person charged in the manner hereinafter provided. The original or a facsimile thereof shall be filed and retained by the bureau, and shall be deemed a record kept in the ordinary course of business, and shall be prima facie evidence of the facts contained therein.

2. A notice of violation shall be served personally upon the operator of a motor vehicle who is present at the time of service, and his name,

together with the plate designation and the plate type as shown by the registration plates of said vehicle and the expiration date; the make or model, and body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect, unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are everyday and/or twenty-four hours a day; the meter number for a meter violation, where appropriate; and the date, time and particular place of occurrence of the charged violation, shall be inserted therein. A mere listing of a meter number in cases of charged meter violations shall not be deemed to constitute a sufficient description of a particular place of occurrence for purposes of this subdivision. The notice of violation shall be served upon the owner of the motor vehicle if the operator is not present, by affixing such notice to said vehicle in a conspicuous place. Whenever such notice is so affixed, in lieu of inserting the name of the person charged with the violation in the space provided for the identification of said person, the words "owner of the vehicle bearing license" may be inserted to be followed by the plate designation and plate type as shown by the registration plates of said vehicle together with the expiration date; the make or model, and body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are every day and/or twenty-four hours a day; the meter number for a meter violation where appropriate; and the date, time and particular place of occurrence of the charged violation. Service of the notice of violation, or a duplicate thereof by affixation as herein provided shall have the same force and effect and shall be subject to the same penalties for disregard thereof as though the same was personally served with the name of the person charged with the violation inserted therein.

2-a. (a) Notwithstanding any inconsistent provision of subdivision two

of this section, where the plate type or the expiration date are not shown on either the registration plates or sticker of a vehicle or where the registration sticker is covered, faded, defaced or mutilated so that it is unreadable, the plate type or the expiration date may be omitted from the notice of violation; provided, however, such condition must be so described and inserted on the notice of violation.

(b) If any information which is required to be inserted on a notice of violation is omitted from the notice of violation, misdescribed, or illegible, the violation shall be dismissed upon application of the person charged with the violation.

(c) (i) A determination dismissing a charged parking violation that has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative may be set aside by a hearing examiner as hereinafter provided.

(ii) Notice shall be served on the owner by mail to the last known registered address within two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative. Such notice shall fix a time when and place where a hearing shall be held before a hearing examiner to determine whether or not dismissal of a charged parking violation shall be set aside. Such notice shall set forth the basis for setting aside the dismissal and advise the owner that failure to appear at the date and time indicated in such notice shall be deemed an admission of liability and shall result in the setting aside of the dismissal and entry of a determination on the charged parking violation. Such notice shall also contain a warning that civil penalties may be imposed for the violation pursuant to this paragraph and that a default judgment may be entered thereon.

(iii) Upon a finding by a hearing examiner that the dismissal of a charged parking violation has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or

his or her agent, employee, or representative, the dismissal shall be set aside and a determination may be rendered against the owner on the charged parking violation. The hearing examiner may impose monetary penalties for the charged parking violation of up to three times the scheduled fine for the violation and three times the additional penalties that may be imposed for failure to respond to a notice of violation pursuant to section two hundred thirty-five of this article. For purposes of determining the amount of such additional penalties, the hearing examiner shall disregard the plea that procured the dismissal that has been set aside and shall calculate such penalties as if there had been no plea or appearance in the proceeding. In any proceeding under this paragraph to set aside a determination and to impose penalties for the violation, it shall not be necessary for the hearing examiner to find that the owner personally committed the unlawful acts that procured the dismissal of the violation.

(iv) Failure to appear at a hearing in response to a notice issued pursuant to this paragraph shall be deemed to be an admission of liability for the charged parking violation as set forth in the original notice of violation and a default judgment may be entered against the owner in the maximum amount set forth in subparagraph (iii) of this paragraph.

(v) Notwithstanding any inconsistent provision of section two hundred forty-one of this article, a default judgment may be entered pursuant to this paragraph more than two years after the expiration of the time prescribed for entering a plea or contesting an allegation, but no more than two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation.

3. For purposes of this section, an operator of a vehicle who is not the owner thereof but who uses or operates such vehicle with the permission of the owner, express or implied, shall be deemed to be the agent of such owner to receive notices of violation, whether personally served on such operator or served by affixation in the manner aforesaid, and service made in either manner as herein provided shall also be

deemed to be lawful service upon such owner.

§ 239. Ownership and operation of vehicles; liability. 1. Definitions. Whenever used in this article, the following terms shall have the following meanings:

a. "Owner" means any person, corporation, partnership, firm, agency, association, lessor, or organization who at the time of the issuance of a notice of violation in any city in which a vehicle is operated:

(1) is the beneficial or equitable owner of such vehicle; or

(2) has title to such vehicle; or

(3) is the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or

(4) uses such vehicle in its vehicle renting and/or leasing business; or

(5) is an owner of such vehicle as defined by section one hundred twenty-eight of this chapter or subdivision (a) of section twenty-one hundred one of this chapter.

b. "Lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee or bailee under a rental agreement, lease or otherwise, wherein the said lessee or bailee has the exclusive use of said vehicle for any period of time.

c. "Lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, bails, leases or contracts for the use of one or more vehicles and has the exclusive use thereof for any period of time.

d. "Vehicle" means a vehicle as defined in section one hundred fifty-nine of this chapter.

e. "Operator" means any person, corporation, firm, partnership,

agency, association, organization or lessee that uses or operates a vehicle with or without the permission of the owner, and an owner who operates his own vehicle.

f. "Notice of violation" means a notice of violation as defined in subdivision nine of section two hundred thirty-seven of this article, but shall not be deemed to include a notice of liability issued pursuant to authorization set forth in articles ten, twenty-four, twenty-nine and thirty of this chapter, section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty to impose monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; or to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation

monitoring systems, in accordance with article thirty of this chapter; or to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter.

g. "Fiscal year" means a period of one year commencing on the first day of July and terminating on the thirtieth day of June.

h. "Primary filing" means the initial filing of registration plate numbers by a lessor prior to the commencement of each fiscal year.

2. Liability. a. The operator of a vehicle shall be liable for the fines or penalties imposed pursuant to this article. Except as otherwise provided in paragraphs b and e of this subdivision, the owner of the vehicle, even if not the operator thereof, shall be jointly and severally liable with the operator thereof, if such vehicle was used or operated with the permission of the owner, express or implied, but in such case the owner may recover any fine or penalties paid by him from the operator.

b. The lessor of a motor vehicle shall not be liable for fines or penalties imposed pursuant to this article if:

(1) prior to the infraction, the lessor has filed with the bureau the registration plate number, plate type, and place of registration of the vehicle to which the notice of violation was issued and paid the required filing fee provided in paragraph f of this subdivision and,

(2) within thirty-seven days after receiving notice from the bureau of the date and time of a violation, together with the other information contained in the original notice of violation, the lessor submits to the

bureau the correct name and address of the lessee of the vehicle identified in the notice of violation 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 bureau pursuant to regulations that may be promulgated for such purpose.

c. If the lessor has complied with subparagraph one of paragraph b of this subdivision such lessor shall not be liable for any penalties in excess of the scheduled fine unless such lessor fails to appear within thirty-seven days of actual receipt of a notice of violation pursuant to paragraph e of this subdivision.

d. If the lessor who has complied with subparagraph one of paragraph b of this subdivision has paid any fine or penalty for which he is liable and the bureau subsequently collects from the operator or lessee the amount of the scheduled fine and penalty owed by such person, or any portion thereof, the lessor shall be entitled to reimbursement from the bureau of the amount of the fine and penalty paid by the lessor, less the bureau's costs of collection.

e. The lessor shall not be liable for any fines or penalties in connection with a notice of violation for a vehicle whose registration plate number is filed and the fee therefor paid prior to the time of the issuance of notice of violation, unless the lessor shall receive notice from the bureau of the date and time of such violation, together with the other information contained in the original notice of violation, within ninety days after service of the notice of violation, in accordance with subdivision two of section two hundred thirty-eight of this article.

f. The annual fee for filing a registration plate number with the bureau by lessors under this section shall be twelve dollars per fiscal year. Lessors shall also provide the bureau with such other additional information in such format as the bureau by regulation may reasonably require. The registration plate number shall not be considered filed with the bureau unless the annual filing fee provided for in this subdivision shall have been paid. Lessors shall not be entitled to a

refund, reduction, credit or other consideration in connection with such annual filing fee in the event that such registration plate number is withdrawn from service, destroyed or surrendered during the fiscal year for which such registration plate number shall have been filed. In the event that a lessor files with the bureau registration plate numbers during the fiscal year, the annual filing fee for same shall be prorated on a monthly basis, in accordance with a schedule that the bureau shall promulgate by regulation for such purpose. The primary filing by each lessor for each fiscal year shall be made at least thirty days prior to the commencement of the fiscal year.

g. Where the United States postal authorities return to the bureau a delinquency notice forwarded by the bureau to a name and address of a lessee furnished by a lessor in accordance with provisions of this section, such return notice shall be presumptive evidence of the furnishing of an incorrect name and address by the lessor. The lessor may, however, conclusively rebut such presumption if within sixty days after receiving notification from the bureau of such returned mail notice, the lessor shall provide to the bureau a copy of the rental agreement or lease agreement for such lessee containing the name and address previously furnished to the bureau. In the event that a lessor shall fail to rebut the presumption established by this subdivision, the lessor shall be liable for the fines imposed pursuant to this article and in accordance with the rules and regulations promulgated by the bureau.

h. The bureau shall by rules and regulations prescribe the manner and method of giving notice of outstanding violations to the lessees, except that notices of impending default judgment shall be forwarded by first class mail, in accordance with subdivision two of section two hundred forty-one of this article. All notices to lessors under this section shall be by first class mail to the address on file with the bureau or by such other means as shall be provided for in the rules and regulations of the bureau.

i. A lessor shall cooperate with the bureau in the enforcement of judgments rendered against lessees or providing the bureau, or its

designated agents, with such other additional information as shall be contained in such lessor's rental or lease agreements with their lessees as shall be available to them.

3. Stolen vehicles. If any owner of a motor vehicle receives a notice of violation for a period during which the illegally parked vehicle was reported to any police department as having been stolen, it shall be a valid defense to any charge of a parking violation that the motor 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 the purposes of asserting the defense provided by this subdivision, it shall be sufficient that a certified copy of the police report of the stolen vehicle be mailed to the bureau.

* 4. Applicability. The provisions of paragraph b of subdivision two and subdivision three of this section shall not be applicable to determinations of owner liability for the failure of an operator to comply with subdivision (d) of section eleven hundred eleven of this chapter and shall not be applicable to determinations of owner liability imposed pursuant to section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty and shall not be applicable to determinations of owner liability for the failure of an operator to comply with subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter.

* NB Effective until July 1, 2030

* 4. Applicability. The provisions of paragraph b of subdivision two and subdivision three of this section shall not be applicable to determinations of owner liability for the failure of an operator to comply with subdivision (d) of section eleven hundred eleven of this chapter and shall not be applicable to determinations of owner liability imposed pursuant to section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty.

* NB Effective July 1, 2030

§ 240. Hearings, notice and conduct. 1. Notice of hearing. Whenever a person charged with a parking violation enters a plea of not guilty; or a person alleged to be liable in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; or to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic

regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, contests such allegation, the parking violations bureau or the traffic camera violations bureau, as applicable, shall advise such person personally by such form of first class mail as the director may direct of the date on which such person must appear to answer the charge at a hearing. The form and content of such notice of hearing shall be prescribed by the director, and shall contain a warning to advise the person so pleading or contesting that failure to appear on the date designated, or on any subsequent adjourned date, shall be deemed an admission of liability, and that a default judgment may be entered thereon.

1-a. Fines and penalties. Whenever a plea of not guilty has been entered, or the parking violations bureau or the traffic camera violations bureau, as applicable, has been notified that an allegation of liability in accordance with provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four

of the laws of nineteen hundred fifty; or to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, is being contested, by a person in a timely fashion and a hearing upon the merits has been demanded, but has not yet been held, the applicable bureau shall not issue any notice of fine or penalty to that person prior to the date of the hearing.

1-b. (a) In a city having a population of one million or more, at every hearing for the adjudication of a notice of liability, as provided by this article, there shall be a rebuttable presumption that the owner of a first-response emergency vehicle alleged to be liable in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven

hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter is not liable for such alleged violation if such owner of the first-response emergency vehicle provides the hearing officer with:

(i) a signed and affirmed affidavit attesting that the operator of the first-response emergency vehicle at the time of the alleged violation is a medically-trained first responder and that the alleged violation occurred while the operator of the first-response emergency vehicle was involved in an emergency operation in such vehicle in response to a medical emergency call; and

(ii) documentation supporting the dispatch of the medical emergency call and the dispatch of the operator and the first-response emergency vehicle to the scene of the medical emergency.

(b) As used in this subdivision, "first-response emergency vehicle" shall mean ambulances as defined in section one hundred-b of this chapter and emergency ambulance service vehicles as defined in section one hundred fifteen-c of this chapter.

2. Conduct of hearings. a. Every hearing for the adjudication of a charge of parking violation or an allegation of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter, or an allegation of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred

eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with certain posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or an allegation of liability of an owner for a violation of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter, or an allegation of liability of an owner for a violation of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or an allegation of liability of an owner for a violation of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter, or an allegation of liability of an owner for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with certain posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or an allegation of liability of an

owner for a violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter, or an allegation of liability of an owner for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, shall be held before a hearing examiner in accordance with rules and regulations promulgated by the parking violations bureau or the traffic camera violations bureau, as applicable.

b. No charge may be established except upon proof by substantial evidence.

c. The hearing examiner shall not be bound by the rules of evidence in the conduct of the hearing, except rules relating to privileged communications.

d. The hearing examiner shall at the request of the person charged on a showing of good cause and need therefor, or in his own discretion, issue a subpoena to compel the appearance at a hearing of the officer who served the notice of violation or of other persons to give testimony, and may issue a subpoena duces tecum to compel the production for examination or introduction into evidence, of any book, paper or other thing relevant to the charges.

e. In the case of a refusal to obey a subpoena, the parking violations bureau or the traffic camera violations bureau, as applicable, may make

application to the Supreme Court pursuant to section twenty-three hundred eight of the civil practice law and rules, for an order requiring such appearance, testimony or production of evidence.

f. The hearing examiner shall not examine the prior violation record of a person charged before making a determination.

g. A record shall be made of a hearing on a plea of not guilty or of a hearing at which liability in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in

violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, is contested. Recording devices may be used for the making of the record.

§ 241. Final determinations, judgments. 1. The hearing examiner shall make a determination on the charges, either sustaining or dismissing them. Where the hearing examiner determines that the charges have been sustained such hearing examiner may examine either the prior parking violations record or the record of liabilities incurred in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school

bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, of the person charged, as applicable prior to rendering a final determination. Final determinations sustaining or dismissing charges shall be entered on a final determination roll maintained by the parking violations bureau or the traffic camera violations bureau, as applicable, together with records showing payment and nonpayment of penalties.

2. Where an operator or owner fails to enter a plea to a charge of a parking violation or contest an allegation of liability in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article

thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this article or by rule or regulation of the parking violations bureau or the traffic camera violations bureau, as applicable, such failure to plead or contest, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in an amount provided by the rules and regulations of such bureau. However, after the expiration of the original date prescribed for entering a plea and before a default

judgment may be rendered, in such case the applicable bureau shall pursuant to the applicable provisions of law notify such operator or owner, by such form of first class mail as the commission may direct; (1) of the violation charged, or liability alleged in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this

chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, (2) of the impending default judgment, (3) that such judgment will be entered in the Civil Court of the city in which such bureau has been established, or other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York, and (4) that a default may be avoided by entering a plea or contesting an allegation of liability in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation

monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter; or making an appearance within thirty days of the sending of such notice. Pleas entered and allegations contested within that period shall be in the manner prescribed in the notice and not subject to additional penalty or fee. Such notice of impending default judgment shall not be required prior to the rendering and entry thereof in the case of operators or owners who are non-residents of the state of New York. In no case shall a default judgment be rendered or, where required, a notice of impending default judgment be sent, more than two years after the expiration of the time prescribed for entering a plea or contesting an allegation. When a person has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing. If the hearing examiner shall make a determination on the charges, sustaining them, such hearing examiner shall impose no greater penalty or fine than those upon which the person was originally charged.

3. A judgment entered pursuant to the provisions of this section shall remain in full force and effect for eight years notwithstanding any other provision of law.

§ 241-a. Complaint procedure for satisfied or wrongfully imposed fine or penalty. 1. (a) Every city with a population of more than one million inhabitants that has established a parking violations bureau shall establish, within such bureau, a properly staffed complaint unit of public service representatives to respond to complaints from any person

who, after having satisfied, by payment, adjudication, or administrative action, any fine or penalty for a parking violation or after having proven that a fine or penalty was wrongfully imposed on this person, receives a demand for payment of the fine or penalty previously satisfied or wrongfully imposed, or is denied any registration or renewal application by the department of motor vehicles upon a certification from such parking violations bureau based upon lack of payment of any fine or penalty previously satisfied or wrongfully imposed. The complaint unit established under this section shall accept complaints either in person or by certified mail, return receipt requested. Each written demand for payment, other than the first demand following issuance of the notice of violation, shall advise the addressee of the existence of the complaint unit and the procedure for submitting a complaint. Upon receipt of a complaint, if in person, or within ten work days after receipt of a complaint if by mail, the complaint unit shall acknowledge receipt in writing and notify the complainant of the procedure for further review. The complaint unit shall, within thirty days after receiving a complaint in person or by certified mail supported by the proof prescribed by this section, notify the complainant that the payment has been credited to his or her record; that the wrongful imposition has been removed from the complainant's record; or that the information sent to the bureau fails to prove that the fine or penalty was satisfied or that the imposition was wrongful, in which case the reason or reasons shall be set forth.

(b) If, after this thirty day period, the bureau continues to demand payment from this person of the fine or penalty previously satisfied or wrongfully imposed, or if the bureau does not render a determination, the person within six months from the date of his or her complaint shall have the right to an expedited review before a panel of three administrative law judges. Such panel shall be empowered to compel the bureau to produce records and other evidence relevant and material to the complaint. The complainant shall be required to submit, together with his or her request for a review, a copy of all the materials submitted with the original complaint. The panel of administrative law judges shall be empowered to direct that the bureau's records be changed, as appropriate, to insure that no further demand is made for the fine or penalty previously satisfied or wrongfully imposed, and the

bureau shall comply with such directive. Further, the panel of administrative law judges, upon petition by the complainant, may at its sole discretion, direct the parking violations bureau to pay the complainant who receives a wrongfully imposed fine or has previously satisfied an outstanding fine such out-of-pocket expenses as the panel deems reasonable only in such cases where the complainant sufficiently demonstrates that he or she has notified the bureau of his or her complaint under this section and the bureau has failed, in the panel's opinion, to remove the wrongfully imposed fine or the previously satisfied fine; however, payment of such expenses shall not exceed the amount of the original fine.

(c) Any other city authorized to establish a parking violations bureau may create a panel to resolve complaints relating to satisfied penalties and wrongfully imposed penalties. The composition of such a panel shall be determined by local option.

2. This section shall not apply to parking violation fines or penalties relating to commercial, taxi, common or contract carriers or livery vehicles.

3. In cities required to create a review panel under this section, the parking violations bureau shall keep a record of all complaints submitted under this section for a minimum of three years, and shall issue a public report every year containing the number of complaints heard each year according to category, the number of dispositions favorable to complainants, the average compensation awarded in such favorable dispositions, and any other appropriate information. Such information shall also be published annually and placed in the municipal reference library, in such cities where applicable.

4. The proof that must be submitted in connection with a complaint made under this section is, as appropriate, a copy of the receipt, money order or front and back of cancelled check; a copy of a police report of stolen vehicle or stolen or lost plates or proof of an insurance company payment for a stolen vehicle, or a department of motor vehicles receipt for surrendered plates. As used in this section, a "wrongfully imposed" fine or penalty shall mean a fine or penalty which is imposed after the

respective vehicle has been stolen or after the license plates were stolen, lost or surrendered to the department of motor vehicles.

5. Every such parking violations bureau shall adopt and promulgate rules and regulations not inconsistent with any applicable provision of law, to carry out the purposes of this section.

§ 241-b. Muni-meter receipts; affirmative defense. In any prosecution or proceeding alleging a muni-meter parking violation, it shall be an affirmative defense to such violation, with the burden of proof on the person who received the summons, that he or she did in fact purchase a muni-meter ticket prior to or up to five minutes thereafter from the issuance of the summons and that the receipt is valid for use at the time and location where such summons was issued. Such defense shall be deemed established if such person produces the actual muni-meter receipt or a copy thereof at such prosecution or proceeding. For the purposes of this section, "muni-meter" shall mean an electronic parking meter that dispenses timed receipts showing the amount of parking time purchased.

§ 242. Administrative review. 1. There shall be an appeals board within the parking violations bureau and within the traffic camera violations bureau which shall consist of three or more hearing examiners but in no event shall the hearing examiner from whose decision the appeal is taken be included in the panel determining said appeal.

2. An appeal from a determination of any hearing examiner after a hearing on a plea denying liability, or from a determination denying a motion to reopen any matter shall be submitted to the applicable appeals board, which shall have power to review the facts and the law, and shall have power to reverse or modify any determination appealed from for error of fact or law.

3. A party aggrieved by the final determination of a hearing examiner may obtain a review thereof by serving, either personally in writing or by certified or registered mail, return receipt requested, upon the

applicable bureau, within thirty days of the entry of such final determination, a notice of appeal setting forth the reasons why the final determination should be reversed or modified. Upon receipt of such notice of appeal, the applicable bureau shall furnish to the appellant, at the appellant's request and at their own expense, a transcript of the original hearing. No appeal shall be conducted less than ten days after the mailing of the transcript to the appellant or the appellant's attorney. When the questions presented by an appeal can be determined without an examination of all the pleadings and proceedings, the appellant may prepare and submit a statement showing how the questions arose and were decided by the hearing examiner and setting forth only so much of the facts averred and proved or sought to be proved as are necessary to a decision of the questions.

4. Appeals shall be conducted in the presence of the appellant or the appellant's attorney or both, if such right of appearance is expressly requested by the appellant in the appellant's notice of appeal and upon the appellant complying with the regulations of the applicable bureau. If the appellant elects to appear, the applicable bureau within thirty days after the receipt of the notice of appeal shall advise the appellant, either personally or by ordinary first class mail of the date on which such appellant shall appear. No appeal shall be conducted less than ten days after the mailing of such notification. The appellant shall be notified in writing of the decision of the applicable appeals board.

5. The service of a notice of appeal shall not stay the enforcement of a judgment upon the determination appealed from unless the appellant shall have posted a bond in the amount of such determination, at the time of, or before the service of such notice of appeal unless the enforcement of such judgment shall have been stayed by the applicable appeals board.

6. When charges have been overturned by a court or any other administrative body or officer, the party in whose favor the appeal is decided shall be entitled to have returned an amount equal to any fine or penalty imposed and collected from the parking violations bureau or

the traffic camera violations bureau, as applicable, within thirty days of the entry of the judgement; provided, however, that such court, administrative body or officer shall have the authority to lessen from such amount any debt owed by such party and shall apply this amount to any outstanding fines and penalties owed by the same individual. If payment is not made within thirty days, a penalty shall accrue at the same rate as that imposed for failure to make timely payment of a fine and shall be paid by the parking violations bureau or the traffic camera violations bureau, as applicable.

§ 243. Judicial review. The order of the appeals board shall be the final determination of the bureau. Judicial review may be sought pursuant to article seventy-eight of the civil practice law and rules.

§ 244. Separability. If any provision of this article or the application of such provision to any person or circumstances shall be held unconstitutional or invalid, the constitutionality or validity of the remainder of this article and the applicability of such provision to other persons or circumstances shall not be affected thereby.

ARTICLE 3

EXEMPTION OF NON-RESIDENT OWNERS AND OPERATORS

Section 250. Exemption of non-resident owners and operators.
251. Exemption for members of the armed forces and their dependents.
252. Exemption of certain in-transit vehicle registrations.
253. Service of summons on non-residents.
254. Service of summons on residents who depart from state and on residents' executors or administrators who are nonresidents or who depart from state.

§ 250. Exemption of non-resident owners and operators. 1. Except as otherwise provided in subdivision three of this section, the provisions

of this chapter relative to the registration and equipment of motor vehicles, motorcycles and trailers and the display of registration numbers shall not apply to a motor vehicle, motorcycle or trailer owned by a non-resident of this state, provided that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or federal district of his residence relative to registration and equipment of such motor vehicle, motorcycle or trailer, as the case may be, and the display of registration numbers thereon, and shall conspicuously display his registration numbers as required thereby. However, except for a vehicle owned by a person who has obtained a waiver pursuant to the provisions of paragraph b of subdivision three of this section, with respect to such vehicle, the provisions of this subdivision shall be operative as to a motor vehicle, motorcycle or trailer owned by a non-resident of this state only to the extent that under the laws of the foreign country, state, territory or federal district of his residence like exemptions and privileges are granted to motor vehicles, motorcycles and trailers duly registered under the laws of and owned by residents of this state.

A person, firm, association or corporation having a place of business in a foreign country, state, territory or federal district and owning a motor vehicle, motorcycle or trailer used in connection with and garaged at such place of business which such owner is compelled to register in such foreign jurisdiction shall be deemed a resident of such foreign jurisdiction and a non-resident of this state within the meaning of this subdivision for the purpose of enjoying the privileges of this subdivision with respect to such vehicle.

In case a non-resident becomes a resident of this state, he shall be entitled for a period not exceeding thirty days from the date he becomes a resident to the same exemption from registering his vehicles in this state as he would have enjoyed had he remained a non-resident.

2. A person of the age of sixteen years and upwards who shall be a nonresident of this state, and a resident of a state, territory, federal district or foreign country having laws, with which such person has complied, which require such person, in order to operate a motor vehicle

or motorcycle therein, to be licensed, may operate or drive a motor vehicle or motorcycle on the public highways of this state without being so licensed under this chapter, provided, however, that the recognition granted under this subdivision shall, with respect to a person under the age of eighteen years, only permit the operation of a motor vehicle or motorcycle in this state in accordance with the same restrictions imposed upon New York residents operating or driving motor vehicles or motorcycles with class DJ or MJ licenses under subdivision three of section five hundred one of this chapter. A nonresident entitled to operate a motor vehicle or motorcycle as herein provided who shall become a resident of this state may operate or drive a motor vehicle or motorcycle on the public highways of this state for a period not exceeding thirty days from the date he becomes a resident pending the obtaining of a license to operate such motor vehicle or motorcycle in this state. The exemption granted in this subdivision shall not apply to persons whose privilege of operating a motor vehicle in this state, or whose former license to drive in this state, has been suspended or revoked, until such suspension or revocation has been terminated or privilege of operating a motor vehicle restored.

3. (a) The exemptions provided in subdivisions one and four of this section shall not apply to a motor vehicle, motorcycle or trailer, other than a semitrailer drawn by a tractor registered in this state which is operated on any public highway of this state to transport persons or property for hire or profit from one point in this state to another point in this state or which is operated in doing any work performed under a contract for a public improvement to which the state, a municipal corporation, a school district or a commission appointed pursuant to law is a party, except to transport machinery, tools or other plant equipment to be used in the performance of such a contract; provided, however, that the mere makeup or breakup of a tandem trailer combination on the New York state thruway shall not, with respect to the tractor hauling such tandem trailer combination, constitute, in and of itself, a point in this state for the purpose of determining whether there has been a transportation of property for hire or profit from one point in this state to another point in this state; provided, further, however, that the transportation by any tractor not registered in the

state of New York of a trailer carrying property for profit, placed thereon within this state and consigned for delivery herein, shall be prohibited.

(b) The commissioner may, in his discretion, waive the provisions of this subdivision with respect to any motor vehicle, motorcycle, trailer or semitrailer, duly registered in another state, territory, federal district or foreign country, provided that the owner thereof has registered annually in this state a number of vehicles equal to or in excess of the average number of vehicles said owner will have available annually in this state for hire or operation therein. The commissioner is hereby authorized and empowered to adopt and amend rules and regulations to effectuate the provisions of this paragraph. Such regulations may include a requirement that the owner file annually and at such time and in such manner as shall be prescribed by the commissioner, a sworn statement including, but not limited to the following information: (1) the owner's total number of motor vehicles, motorcycles, trailers and/or semitrailers registered in Canada and the United States; (2) the owner's total annual registration of such vehicles in this state; and (3) the total number of such vehicles which are rented, leased or used in this state for the preceding twelve month period or in the absence of any past experience, the total anticipated number of such vehicles that will be rented, leased or used in this state. Nothing herein contained shall be construed as requiring the granting of the waiver authorized by this paragraph.

(c) The provisions of paragraph (a) of this subdivision, insofar as they require display of number plates issued by the commissioner, shall not apply to any motor vehicle, other than a bus, which is duly registered in another state and displays registration and number plates as required by that state, which registration and number plates permit the transportation of persons for-hire within that state, provided the registrant has been issued a registration for such motor vehicle by the commissioner, has paid the appropriate annual fee as provided in schedule C of subdivision seven of section four hundred one of this chapter and displays proof of such registration on such vehicle in accordance with regulations promulgated by the commissioner. Notwithstanding any other provision of this chapter, the commissioner need not issue number plates to the registrant when issuing a

registration intended to secure the authorization for operation within this state as provided by this paragraph.

4. a. The provisions of this chapter relative to the registration of motor vehicles, motorcycles and trailers and the display of registration numbers shall not apply to a motor vehicle, motorcycle or trailer owned by a non-resident of the state who is a seasonal farm laborer, for a period extending from the first day of April to and including the thirtieth day of November in each year, provided that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or federal district of his residence relative to registration of such motor vehicle, motorcycle or trailer, as the case may be, and the display of registration numbers thereof, and provided further that the owner thereof shall furnish proof to the commissioner that such owner has in effect with respect to such motor vehicle an automobile liability policy issued by an insurance company authorized to do business in this state or by an unauthorized insurer authorized to transact business in the jurisdiction of his residence in at least the amount of twenty-five thousand dollars because of bodily injury to or fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, in at least the amount of fifty thousand dollars because of bodily injury to or one hundred thousand dollars because of death of two or more persons in any accident, and in at least the amount of ten thousand dollars because of injury to or destruction of property of others in any one accident.

b. Upon filing of such proof of financial security, the commissioner shall issue to the owner of said motor vehicle, motorcycle or trailer, upon payment of a fee of two dollars, a certificate, which certificate shall be affixed to a prominent place on the interior of said motor vehicle, motorcycle or trailer, and shall bear the following information: (1) name and address of the owner of said motor vehicle, motorcycle or trailer, (2) make and year of said motor vehicle, motorcycle or trailer, (3) state of registration and registration number thereof, (4) date of expiration of the exemption period provided in this subdivision and (5) such other information as the commissioner may direct.

c. The exemption provided in this subdivision shall in no way affect the non-resident status of the owner of said motor vehicle, motorcycle or trailer and he shall be subject to the provisions of all other laws, rules, codes and regulations with respect to the ownership and/or operation by a non-resident of a motor vehicle, motorcycle or trailer in this state. However, all said motor vehicles, motorcycles and trailers shall be subject to the provisions of article five of this chapter in the same manner as if they are registered in this state.

d. A non-resident of the state who is a seasonal farm laborer shall be entitled to a period not exceeding thirty days from the date of his entrance into the state within which to file proof of financial security and pay the fee required and secure the certificate authorized in paragraph b of subdivision four of this section, provided, however, that the limitations contained in subdivision three of this section shall be applicable until such time as the certificate authorized in paragraph b of this subdivision is obtained.

5. As used in this section, the term "resident" shall mean domiciliary, that is, one who lives in this state with the intention of making it a fixed and permanent abode. It shall be presumptive evidence that a person who maintains a place of abode in this state for a period of at least ninety days is a resident of this state.

§ 251. Exemption for members of the armed forces and their dependents. 1. The provisions of this chapter relative to the registration of motor vehicles and motorcycles and the display of number plates shall not apply to motor vehicles or motorcycles having registrations and displaying plates issued by the armed forces of the United States for vehicles owned by members of the armed forces or their dependents, but such exemption shall be valid only for a period of forty-five days after the owner thereof has entered this state for the purpose of traveling to either his place of residence or a point of military duty.

2. A member of the armed forces who has been issued a license to

operate a motor vehicle or motorcycle by the armed forces of the United States may operate a motor vehicle or motorcycle on the public highways of this state without being licensed under this chapter for a period of sixty days after such person has entered this state.

2-a. A member of the armed forces and any dependent of such person sixteen years of age or older who has complied with the laws of a state, territory, federal district or foreign country which require such person, in order to operate a motor vehicle or motorcycle therein, to be licensed, may operate or drive a motor vehicle or motorcycle on the public highways of this state without being so licensed under this chapter. Provided, however, that the recognition granted under this subdivision shall, with respect to a person under the age of eighteen years, only permit the operation of a motor vehicle or motorcycle in this state in accordance with the same restrictions imposed upon New York residents operating or driving motor vehicles or motorcycles with class DJ or MJ licenses under subdivision three of section five hundred one of this chapter. The exemption granted in this subdivision shall not apply to persons whose privilege of operating a motor vehicle in this state, or whose former license to drive in this state, has been suspended or revoked, until such suspension or revocation has been terminated or privilege of operating a motor vehicle restored. Notwithstanding the provisions of subdivision four of this section, for purposes of this subdivision, "member of the armed forces" shall mean a person on active duty, other than annual active duty for training, in a branch of the armed forces of the United States and "dependent" shall mean a spouse or child of a member of the armed forces residing in the same household and dependent upon such member of the armed forces for support.

3. The provisions of this chapter relative to the registration and equipment of motor vehilces, motorcycles and trailers and the display of registration numbers shall not apply to motor vehicles, motorcycles or trailers owned by members of the armed forces or their dependents who are non-residents of this state, provided that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or federal district of his residence relative to

registration and equipment of such motor vehicles, motorcycles or trailers, as the case may be, and the display of registration numbers thereon, and shall conspicuously display his registration numbers as required thereby.

4. For the purposes of this section "member of the armed forces" shall mean a person on active duty, other than annual active duty for training, in a branch of the armed forces of the United States or a person who has been discharged from such active duty within the preceding sixty days, and "dependent" shall mean a spouse or child of a member of the armed forces or other person residing in the same household and dependent upon such member of the armed forces for support.

§ 252. Exemption of certain in-transit vehicle registrations. The provisions of this chapter relative to the registration of motor vehicles and motorcycles and the display of number plates shall not apply to motor vehicles or motorcycles having a temporary in-transit or transporter registration or permit issued by another state directly to the purchaser of such motor vehicle or motorcycle, but such exemption shall be valid until the expiration date appearing on such registration or permit or for a period of thirty days from the date of issuance of such registration or permit, whichever is less, for the purpose of transporting the vehicle to the jurisdiction in which it will be regularly registered.

§ 253. Service of summons on non-residents. 1. The use or operation by a non-resident of a vehicle in this state, or the use or operation in this state of a vehicle in the business of a non-resident, or the use or operation in this state of a vehicle owned by a non-resident if so used or operated with his permission, express or implied, shall be deemed equivalent to an appointment by such non-resident of the secretary of state to be his true and lawful attorney upon whom may be served the summons in any action against him, growing out of any accident or collision in which such non-resident may be involved while using or

operating such vehicle in this state or in which such vehicle may be involved while being used or operated in this state in the business of such non-resident or with the permission, express or implied, of such non-resident owner; and such use or operation shall be deemed a signification of his agreement that any such summons against him which is so served shall be of the same legal force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the summons issues, and that such appointment of the secretary of state shall be irrevocable and binding upon his executor or administrator. Where such non-resident has died prior to the commencement of an action brought pursuant to this section, service of process shall be made on the executor or administrator of such non-resident in the same manner and on the same notice as is provided in the case of the non-resident himself. Where an action has been duly commenced under the provisions of this section against a non-resident who dies thereafter, the court must allow the action to be continued against his executor or administrator upon motion with such notice as the court deems proper.

2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by mailing a copy thereof to the secretary of state at his office in the city of Albany, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and such service shall be sufficient service upon such non-resident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by certified mail or registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his certified mail or registered mail, in accordance with the rules and customs of the post-office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal

authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail; or, if the registered or certified letter was returned to the post office unclaimed, the original envelope bearing a notation by the postal authorities of such mailing and return, an affidavit by or on behalf of the plaintiff that the summons was posted again by ordinary mail and proof of mailing certificate of ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post-office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his certified mail or registered mail; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the secretary of state at his office in the city of Albany, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and by delivering a duplicate copy thereof with the complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgements of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshall or deputy United States marshall. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The court in which the action is pending may order such extensions as may be necessary to afford the defendant reasonable opportunity to defend the

action.

3. As used in this section, the term "vehicle" means a "motor vehicle," "motorcycle," "semitrailer," and "trailer" as defined in sections one hundred twenty-five, one hundred twenty-three, one hundred forty-three and one hundred fifty-six, respectively, of this chapter, whether or not such vehicles are used or operated upon a public highway.

§ 254. Service of summons on residents who depart from state and on residents' executors or administrators who are nonresidents or who depart from state. The provisions of section two hundred fifty-three of this chapter shall also apply (a) to a resident who departs from the state subsequent to the accident or collision and remains absent therefrom for thirty days continuously, whether such absence is intended to be temporary or permanent, and to any executor or administrator of such resident, and (b) to an executor or administrator of a resident if such executor or administrator is a nonresident or if, being a resident, he departs from the state and remains absent therefrom for thirty days continuously, whether such absence is intended to be temporary or permanent.

ARTICLE 3-A

ADMINISTRATIVE APPEALS

Section 260. Appeals board; functions.
261. Right of appeal; time limitations; appeal procedures; fees.
262. Stays pending appeal.
263. Judicial review.

§ 260. Appeals board; functions. 1. Appeals board. The appeals board established pursuant to article two-A of this chapter shall also constitute the appeals board for the purposes of this article.

2. Functions. Each appeal filed pursuant to this article shall be reviewed by the appeals board, which shall make a determination of such

appeal, and shall cause an appropriate order to be entered in the records of the department.

§ 261. Right of appeal; time limitations; appeal procedures; fees. 1. Right of appeal. Whenever a license, certificate, permit or any privilege is denied, suspended or revoked by the commissioner pursuant to this chapter, except where such action is based upon a conviction as a result of which such action is required by statute or is based upon a determination rendered under the provisions of article two-A of the vehicle and traffic law, the holder thereof may appeal such determination pursuant to the provisions of this article and such regulations as may be promulgated by the commissioner. In addition, following an adjudicatory proceeding conducted pursuant to section four hundred seventy-one-a of this chapter, an aggrieved party may appeal the commissioner's decision pursuant to the provisions of this article and such regulations as may be promulgated by the commissioner. Notwithstanding the provisions of this subdivision, appeals from determinations made pursuant to article twelve-A of this chapter shall be governed in accordance with the provisions of that article.

2. Time limitations. No appeal shall be reviewed if it is filed more than sixty days after written notice was given of the determination appealed from.

3. Appeal procedures. Any person desiring to file an appeal pursuant to this article shall do so in a form and manner provided by the commissioner. If a hearing was held prior to such determination, the transcript of the hearing will only be reviewed if it is submitted by the appellant. An appeal shall not be deemed to be finally submitted until the appellant has submitted all forms or documents required to be submitted by the commissioner or this article, including the transcript when such is requested to be reviewed; provided, however, such appeal shall be deemed to have been finally submitted if the appeal is filed and the transcript is ordered prior to the expiration of the time limitations imposed by subdivision two of this section.

4. Fees. The fee for filing an appeal shall be ten dollars. No appeal shall be deemed filed unless any required fee has been paid.

§ 262. Stays pending appeal. The appeals board, or chairman thereof, upon the request of any person who has filed an appeal, may, in its discretion, grant a stay pending a determination of the appeal. Whenever a determination has not been made within thirty days after an appeal has been finally submitted, a stay of execution will be deemed granted by operation of law, and the license, certificate, permit or privilege affected will be automatically restored pending final determination.

§ 263. Judicial review. No determination of the commissioner or a member of the department which is appealable under the provisions of this article shall be reviewed in any court unless an appeal has been filed and determined in accordance with this article. The determination of the appeals board shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules; provided, however, the refusal of an appeals board to grant a stay pending appeal shall be deemed a final determination for purposes of appeal.

TITLE III

SAFETY RESPONSIBILITY; FINANCIAL SECURITY; EQUIPMENT; INSPECTION; SIZE AND WEIGHT; AND OTHER PROVISIONS

Article 4. Application of this title.
5. Periodic inspection of motor vehicles.
5-A. (Enacted without article heading).
6. Motor vehicle financial security act.
7. Motor vehicle safety responsibility act.
8. Indemnity bonds or insurance policies on vehicles transporting passengers for hire.
9. Equipment of motor vehicles and motor cycles.
10. Dimensions and weights of vehicles.
11. Civil liability.

12. Other provisions.
12-A. Motor vehicle repair shop registration act.
12-B. Approval of motor vehicle accident prevention courses.
12-C. Accident prevention course internet, and other technology pilot program.
12-D. Pre-licensing course internet pilot program.

ARTICLE 4

APPLICATION OF THIS TITLE

Section 300. Application of this title.

§ 300. Application of this title. Except as otherwise expressly provided in this chapter, this title shall be exclusively controlling:

(a) On the use by motor vehicles of public highways, and

(b) On the accessories used upon motor vehicles and motorcycles and their incidents.

ARTICLE 5

PERIODIC INSPECTION OF MOTOR VEHICLES

Section 301. Periodic inspection of all motor vehicles.
301-a. Re-inspection of motor vehicles involved in certain accidents.
301-b. Heavy duty vehicle emissions.
302. Powers and duties of the commissioner.
303. Official inspection stations.
304. Inspection and certificates of inspection.
304-a. Certified inspectors.
305. Fees.
306. Enforcement.
307. Voluntary inspection.
308. Definitions.
308-a. Mandatory reporting.

§ 301. Periodic inspection of all motor vehicles. (a) The commissioner shall require that every motor vehicle registered in this state be inspected once each year for safety, and at least biennially for emissions as provided for pursuant to paragraph two of subdivision (d) of this section, and in accordance with the provisions of this article, and that every motor vehicle sold or transferred for use on the public highways of this state by a dealer registered under section four hundred fifteen of this chapter to any person other than another such registered dealer or transferred for no remuneration by such a registered dealer to any person other than to a welfare to work program authorized by the New York state department of labor, a private industry council, a county or a social services district for the sole use of public assistance recipients or applicants participating in the welfare to work program to which such vehicle is transferred must be inspected and bear a valid certificate or certificates of inspection prior to delivery to the purchaser or transferee. Provided, however, that nothing contained herein shall be deemed to exempt any motor vehicle so transferred to a welfare to work program pursuant to the provisions of this subdivision from being inspected in accordance with the provisions of this section or from complying with all other applicable provisions of this chapter, including registration and financial security, prior to operation on any public highway.

(b) The commissioner shall also require the inspection of any motor vehicle duly registered under the laws of another state, a province of Canada, a territory or a federal district to the extent to which such state, province, territory or federal district requires the inspection of motor vehicles duly registered under the laws of this state.

(c) (1) (a) A safety inspection shall be made with respect to the brakes; steering mechanism; wheel alignment; lights, including but not limited to the lights which are designed and placed on a vehicle for the purpose of illuminating the vehicle's license plates; odometer; tire pressure; seat safety belts; shoulder harness safety belts; any window which is composed of, covered by or treated with any material which has a light transmittance of less than seventy percent pursuant to section three hundred seventy-five of this title and such other mechanisms and equipment as shall be determined by the commissioner to be necessary for proper and safe operations. Such inspection shall also be made with

respect to vehicle identification number. Upon inspection, the mileage appearing on the odometer shall be recorded upon the inspection sticker.

(b) In the case of any passenger car manufactured on or after September first, nineteen hundred ninety-seven, during the course of the vehicle safety inspection, the readiness of the inflatable restraint system, by means of the readiness indicator, shall be noted on the invoice supplied to the consumer. The system's lack of readiness shall not be considered grounds for the vehicle to fail the safety inspection provided for in subparagraph (a) of this paragraph.

(2) Such inspection may also include a visual inspection prescribed by the commissioner to determine the presence and correct installation of any air contaminant emission systems or devices which are required by state or federal law or any rules or regulations pursuant thereto; provided that for any vehicle not subject to an emission inspection pursuant to subdivision (d) of this section, such visual inspection shall be performed.

(3) Improper tire pressure shall not be reason for failure of the inspection.

(d) (1) The commissioner, in consultation with the commissioner of environmental conservation, shall implement a program of motor vehicle emissions inspections with respect to any motor vehicles or class of motor vehicles which are required by federal law or any rules or regulations issued pursuant thereto or by any state law or any rules or regulations issued pursuant thereto, including rules and regulations issued by the department of environmental conservation, to meet standards applicable to the emission of any kind of substance by such vehicles or engines or to contain any equipment, systems or design features to reduce such emission. The commissioner shall establish regulations for such inspections. Such regulations shall include provision for cooperating with the commissioner of environmental conservation to notify owners of vehicles that have failed emission inspections of the availability of mobile source emission reduction credit trading programs pursuant to section 19-0301 of the environmental conservation law.

(2) Such inspection shall be performed biennially; provided however that the commissioner may require emission inspections more frequently than biennially if the commissioner of environmental conservation, in

consultation with the commissioner, makes a determination that more frequent emission inspections are necessary to comply with federal requirements or a court order; and provided that an emission inspection program in operation prior to nineteen hundred ninety-three shall continue to require emission inspections at least annually until January first, nineteen hundred ninety-six.

(3) Such inspection shall be performed at a facility that only performs inspections if the commissioner of environmental conservation, in consultation with the commissioner, makes a determination that such restriction is necessary to meet federal requirements. In no event shall any facility operating pursuant to a contract with the commissioner, entered into pursuant to subdivision (a) of section three hundred three of this chapter, be allowed to perform repairs; provided however, that such a facility shall be allowed to perform repairs at no charge that are incidental to the inspection process.

(4) The commissioner shall establish an emission system repair training program, for purposes of enhancing the quality and reliability of emission system repair services available from official repair stations in all areas where emission inspections are required under this section.

(e) The requirements of air contamination emission system inspection shall not apply to historical motor vehicles registered pursuant to schedule G of subdivision seven of section four hundred one of this chapter unless required by federal law.

(f) The department is authorized, in consultation with the departments of environmental conservation and transportation, to adopt rules and regulations necessary to implement a heavy duty vehicle inspection program pursuant to section 19-0320 of the environmental conservation law and implement such program by June first, nineteen hundred ninety-nine.

§ 301-a. Re-inspection of motor vehicles involved in certain accidents. 1. The commissioner may require that a motor vehicle registered in this state or elsewhere which is required to be inspected, be re-inspected after it is involved in a property damage accident which is required to be reported to the motor vehicle department. Such

re-inspection shall be made within sixty days of the date of the accident if the motor vehicle is driven away from the accident site. Such re-inspection shall be made before the vehicle is operated on the public highways if the motor vehicle is towed or transported from the accident site, except that a motor vehicle may be driven from a repair shop to an inspection station for the purpose of being re-inspected.

2. The owner of a car so damaged shall be required to submit to the department within the same time limit as provided in subdivision one of this section satisfactory proof of re-inspection pursuant to rules and regulations to be promulgated by the commissioner.

3. Failure to submit such proof of re-inspection as herein provided shall constitute ground for suspension or revocation of his privileges of operating a motor vehicle in this state and of the operation within this state of any motor vehicle owned by him.

§ 301-b. Heavy duty vehicle emissions. 1. It shall be a violation to operate a heavy duty vehicle which, when tested, exceeds emissions levels set forth in section 19-0320 of the environmental conservation law or regulations adopted thereunder. The following penalties shall apply to any violation found as a result of roadside emissions inspections:

a.	First violation:	$700.00
	Second and subsequent violations:	$1300.00.

b. The penalties set forth in paragraph a of this subdivision shall be reduced to one hundred fifty dollars for the first violation and five hundred dollars for the second and subsequent violations by the court or administrative tribunal before which the summons or appearance ticket is returnable if the violation set forth in the summons or appearance ticket is corrected not later than thirty days after the issuance of the summons or appearance ticket and proof of such correction, as defined in paragraph c of this subdivision, is submitted to the court or administrative tribunal. The penalties described in this section shall

not apply to vehicles defined by section one hundred forty-two of this chapter or owned by a county, town, city, or village for a first violation provided the vehicle is repaired within thirty days of ticket issuance.

c. Acceptable proof of repair or adjustment shall be submitted to the court or administrative tribunal on or before the return date of the summons or appearance ticket in a form and manner prescribed by regulations adopted pursuant to this section.

2. It shall be a violation to operate any heavy duty vehicle registered or required to be registered in this state without a certificate of inspection resulting from an annual inspection as required by section 19-0320 of the environmental conservation law or regulations adopted thereunder. The following violation structure shall apply to such violations:

a.	First violation:	$ 700.00
	Second and subsequent violations:	$1300.00.

b. The penalties defined in paragraph a of this subdivision shall be reduced to three hundred fifty dollars for the first violation and seven hundred fifty dollars for second and subsequent violations, provided that the vehicle in question bears a certificate which was valid within the last thirty days. The penalties described in this section shall not apply to vehicles defined by section one hundred forty-two of this chapter or owned by a county, town, city, or village for a first violation provided the vehicle is inspected within thirty days of ticket issuance.

3. Any fines collected for violations of this section shall be deposited in the clean air fund, to the credit of the mobile source account in accordance with the provisions of section ninety-seven-oo of the state finance law.

4. Notwithstanding the provisions of this section, no penalty shall be imposed pursuant to this section where the operator of such vehicle has

been convicted of the same violation arising from the same incident pursuant to section 19-0320 of the environmental conservation law.

§ 302. Powers and duties of the commissioner. (a) It shall be the duty of the commissioner to administer the provisions of this article.

(b) The commissioner may authorize the acceptance of a certificate of inspection issued in another state having inspection requirements substantially similar to those of this state. He may also extend, on any reasonable ground, the time within which a certificate shall be obtained by the owner of a motor vehicle.

(c) The commissioner may, consistent with federal law and regulations, permit any person, association, corporation or subsidiary corporation of a parent corporation having registered in his or its name in this state more than twenty-five motor vehicles, and qualified dealers of motor vehicles held by them for sale or demonstration, who maintain approved inspection facilities, to conduct the inspection or inspections required by this article under regulation prescribed by the commissioner.

(d) The commissioner of motor vehicles may appoint and at pleasure remove inspectors, consultants and such other assistants and employees as he may deem necessary, within the amount available therefor by appropriation, to carry out the provisions of this article.

(e) The commissioner is empowered to make reasonable rules and regulations for the administration and enforcement of this article and the periods during which motor vehicles are required to be inspected.

(f) The commissioner of motor vehicles may, consistent with federal law and regulations, upon application of any municipality, and upon a determination that such municipality has sufficient personnel and approved inspection facilities to conduct the inspection or inspections required by this article under the regulations prescribed by the commissioner, permit such municipality to conduct the inspection required by this article.

§ 303. Official inspection stations. (a) The commissioner is authorized to operate, enter into contracts with any person to operate, and license official inspection stations for the purpose of making the

inspection prescribed by this article and for the purpose of issuing certificates of inspection.

(1) A license to operate an official inspection station shall be issued only upon written application which shall set forth such facts and evidence as may be required to ascertain the identity, qualifications and character of the applicant. An original application for a license for an official inspection station shall be accompanied by an application fee of twenty-five dollars, which shall in no event be refunded. The commissioner shall issue a license, after appropriate inquiry and investigation, only when satisfied that the station is properly equipped and has competent personnel to make such inspections and that such inspections will be properly conducted, and that the applicant complies with the provisions of this article and the rules and regulations promulgated thereunder. If an application is approved by the commissioner, a license shall be issued to the applicant. The annual fee for a license or license renewal shall be fifty dollars. The commissioner may issue such licenses on a staggered expiration basis, in which event the fees for such licenses shall be prorated on a monthly basis. In no event shall the fee exceed one hundred dollars for two years. The commissioner shall have discretion to issue a license or license renewal which shall be valid for a period of not more than two years. The fee for any such renewal shall be not more than one hundred dollars.

(2) The commissioner may issue a temporary permit to any applicant for a license under the provisions of this article pending final action on an application made for such a license, and the computation of the license fee, if a license is issued, shall be computed from the date of issuance of the temporary permit. Any such permit shall be valid for a period not in excess of sixty days. The provisions of this paragraph relating to fees, shall not apply to the state, a city, county, village, town or school district, or any of the departments thereof.

(3) A contract to operate an emission inspection facility shall include the following conditions:

(i) emission inspection facilities must be geographically dispersed throughout each region in numbers sufficient to allow motorists reasonable access to such facilities;

(ii) maximum daily average waiting times for motorists at emission

inspection facilities shall not exceed fifteen minutes for more than five days each calendar month; and

(iii) no emission inspection facility authorized by a chapter of the laws of nineteen hundred ninety-three shall begin to operate commercially, except for a limited test period not to exceed thirty-one days as approved by the department, prior to January first, nineteen hundred ninety-six, in any area of the state which has an emission inspection program in operation at the time of the enactment of such chapter. The commissioner shall approve any proposed fee schedule to the extent that it will allow an official inspection station operating such a pre-existing program to recover any additional fee imposed by such chapter.

(b) Each official inspection station shall keep a record of inspections, re-inspections, and the results thereof, and a record of certificates of inspection issued.

(c) Each official inspection station shall prominently display in an area of the station where the orderly transaction of business of such station occurs a sign provided or approved by the department and, after a motor vehicle fails to pass inspection at such station, provide written notice on forms provided or approved by the department to the owner or person in charge of said vehicle that the necessary repairs must be made to the vehicle within thirty days from the date of inspection and that such repairs need not necessarily be made at that station and shall be made in a manner consistent with federal law and regulations. The period allowed for repair shall not extend the expiration date of either the inspection sticker or registration certificate.

(d) 1. The commissioner shall supervise and cause inspections to be made of such official inspection stations. It shall be the duty of the superintendent of state police and of the police forces of all municipalities of the state to assist the commissioner in assuring compliance by all official inspection stations with the provisions of this article and with all rules and regulations promulgated thereunder. An official inspection station and the records thereof shall be open for inspection at reasonable times by any police officer or any person designated by the commissioner to inspect such official inspection stations or any person designated by the commissioner of environmental

conservation to inspect such official inspection stations with respect to emission inspections.

2. The commissioner shall have the right to inspect motor vehicles located on the premises of any person, association, corporation, subsidiary corporation or municipality having obtained permission to conduct self-inspection of motor vehicles pursuant to subdivision (c) or (f) of section three hundred two of this chapter and which have been issued a certificate of inspection within the previous fifteen days.

(e) 1. A license to operate an official inspection station or a certificate to inspect vehicles may be suspended or revoked or renewal thereof may be refused by the commissioner or any person duly deputized for one or more of the following causes:

(i) Failure to conduct inspections in conformance with the provisions of this article and the rules and regulations promulgated thereunder or improper issuance of certificates of inspections.

(ii) Conviction of a crime involving fraud, theft, perjury or bribery or other cause which would permit disqualification from receiving a license or a certificate to inspect vehicles upon the original application.

(iii) Fraud, deceit or misrepresentation in securing the license or a certificate to inspect vehicles or in the conduct of licensed or certified activity.

(iv) Excessive charges for conducting inspections and for making adjustments, corrections or repairs required by such inspections.

(v) Violation of any provision of this article or any rule or regulation promulgated thereunder.

2. Provided, however a license to operate an official inspection station or a certificate to inspect vehicles shall be suspended or revoked or renewal thereof shall be refused by the commissioner or any person duly deputized, upon a third or subsequent violation committed within a period of eighteen months of any rule or regulation of the commissioner requiring an inspection station to refuse to perform an inspection as set forth in paragraph two of subdivision (f) of section 79.20 of title fifteen of the codes, rules and regulations of the state of New York. If the commissioner or any person duly deputized orders

penalties to be paid pursuant to subdivision (h) of this section, such penalties shall be in addition to, but not in lieu of, a suspension, revocation, or renewal thereof imposed pursuant to this paragraph.

3. Provided, however, a license to operate an official inspection station or a certificate to inspect vehicles shall be suspended or revoked or renewal thereof shall be refused by the commissioner or any person duly deputized, upon a third or subsequent willful violation, all within a period of eighteen months, of any rule or regulation of the commissioner requiring an inspection station to inspect the muffler or exhaust system of a motorcycle as set forth in subdivision (c) of section 79.28 of title 15 of the codes, rules and regulations of the state of New York. If the commissioner or any person duly deputized orders penalties to be paid pursuant to subdivision (h) of this section, such penalties shall be in addition to, but not in lieu of, a suspension, revocation, or renewal thereof imposed pursuant to this paragraph.

(f) No license or certificate shall be revoked or suspended, or renewal refused, except upon notice to the licensee or certified inspector and after an opportunity to be heard. A license or certificate, however, may be temporarily suspended upon a written notice of temporary suspension delivered by certified mail to the licensee or certified inspector pending any prosecution, investigation or hearing. The written notice of temporary suspension shall provide that the temporary suspension is effective seventy-two hours after delivery of such notice. Whenever any license to operate an official inspection station or certificate to inspect vehicles is revoked, no license or certificate shall be reissued to an applicant until after the expiration of a period of one year from the date of such revocation.

(g) Upon the revocation or suspension of an inspection station license or certificate to inspect vehicles, the holder thereof shall deliver such license or certificate to the revoking or suspending officer, together with all inspection and inspection extension certificates, all inspection record forms, and any and all other items in the possession of the license or certificate holder which theretofore had been issued by the commissioner for use in connection with the inspection station or the inspection of vehicles. The failure of the holder thereof to deliver

any of the aforesaid items to the revoking or suspending officer, or to any peace officer, acting pursuant to his special duties, or police officer directed by the commissioner or agent of the commissioner, displaying authorization to act in such capacity along with a certified copy of the order revoking or suspending such inspection station license, to secure possession thereof, shall constitute a misdemeanor.

(h) The commissioner, or any person duly deputized, in addition to or in lieu of revoking or suspending a license to operate an official inspection station or a certificate to inspect vehicles, may by order require the licensee or certified inspector to pay to the people of this state a penalty for a first violation a sum not exceeding one thousand dollars for each violation found to have been committed; and for a second or subsequent violation not arising out of the same incident both of which were committed within a period of thirty months, a sum of not more than one thousand five hundred dollars for each violation found to have been committed; provided, however, the penalty for each and any violation of subparagraph (iii) of paragraph one of subdivision (e) of this section found to have been committed shall be no less than five hundred dollars and no more than one thousand five hundred dollars, and provided further, however, the penalty for a violation found to have been committed of any rule or regulation of the commissioner requiring an inspection station to refuse to perform an inspection as set forth in paragraph two of subdivision (f) of section 79.20 of title fifteen of the codes, rules and regulations of the state of New York shall be a fine of not less than two hundred fifty dollars nor more than one thousand dollars for a first violation, and a fine of not less than five hundred dollars nor more than one thousand five hundred dollars for a second or subsequent such violation not arising out of the same incident both of which were committed within a period of eighteen months, and upon the failure of such licensee to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such licensee or certified inspector, unless such order is stayed by a court of competent jurisdiction or in accordance with the provisions of article three-A of this chapter, the commissioner may revoke the license of such licensee or the certificate of such certified inspector or may suspend the same for such period as may be determined. Civil penalties

assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located or the certified inspector resides a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

(i) The holder of an inspection station license shall remove or cause to be removed any sign which contains the license number of the station which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the license is revoked or suspended or the inspection station is out of business. If the license is only suspended, the holder may cover up the sign instead of removing it.

(j) No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official inspection station is operating unless an inspection station license has been issued to that person and is currently valid.

§ 304. Inspection and certificates of inspection. (a) No certificate or certificates of inspection shall be issued by an official inspection station until the mechanisms and other equipment, as specified in section three hundred one (c) of this chapter, of the motor vehicle inspected are in proper and safe condition and comply with the rules and regulations of the commissioner and with the laws of this state and the emissions of such motor vehicle conform with subdivision (d) of section three hundred one of this article and regulations promulgated pursuant thereto at the time the certificate is issued.

(b) If such inspection discloses the necessity for adjustments, corrections or repairs the owner shall be so notified and shall have such adjustments, corrections or repairs made within a period of thirty days. If such inspection discloses improper tire pressure, the owner shall be so notified and may have such adjustments, corrections or repairs made as authorized by this subdivision. The commissioner shall establish procedures for reporting the results of such inspections and for notifying the owners. The owner may have such adjustments, corrections and repairs made in any way and by any person provided that such repairs are made in a manner consistent with federal law and regulations.

(c) The commissioner shall issue certificates of inspection to official inspection stations. Such certificates of inspection shall be serially numbered and shall bear such information as the commissioner may require, and shall include a notice that any complaint against an official inspection station for inadequate inspection or for making excessive or unreasonable repairs, may be made in writing to the department of motor vehicles at Albany, New York. Each certificate shall be valid until the end of the inspection period during which the motor vehicle must again be inspected, as determined by the rules and regulations of the commissioner, or until the end of the repair period designated under section three hundred four (b), whichever occurs first.

§ 304-a. Certified inspectors. (a) The commissioner shall issue a certificate to an individual authorizing such person to conduct inspections under this article. No person shall conduct an inspection unless that person is a certified inspector. The commissioner may establish a classified system of certified inspectors.

(b) The fee for filing such an application shall be ten dollars. Such fee shall not be refundable. The annual fee for certification as an inspector shall be five dollars. A certification shall expire on any date determined by the commissioner.

(c) The commissioner may, by regulation, establish standards of competency and fitness for certification as an inspector.

* (d) Fees, deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the transportation safety account

established pursuant to section ninety-one of the state finance law through March thirty-first, two thousand four and from April first, two thousand four and thereafter shall be deposited to the dedicated highway and bridge trust fund.

* NB Effective until April 1, 2028

* (d) Fees, deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the transportation safety account established pursuant to section ninety-one of the state finance law.

* NB Effective April 1, 2028

§ 305. Fees. (a) The fee for a certificate of inspection issued by the commissioner, to be collected from the owner of an official inspection station to whom issued, shall be as follows:

* (1) The fee for a certificate representing that a safety inspection has been performed shall be two dollars, which shall be deposited into the transportation safety account established pursuant to section ninety-one of the state finance law through March thirty-first, two thousand four and to the dedicated highway and bridge trust fund from April first, two thousand four and thereafter, and

* NB Effective until April 1, 2028

* (1) The fee for a certificate representing that a safety inspection has been performed shall be two dollars, which shall be deposited into the transportation safety account established pursuant to section ninety-one of the state finance law, and

* NB Effective April 1, 2028

* (2) The fee for a certificate representing that an emissions inspection has been successfully completed shall be set by the commissioner through regulation, at an amount not to exceed four dollars or eight dollars if performed on a biennial basis. Such fees shall be deposited into the mobile source account of the clean air fund established by section ninety-seven-oo of the state finance law.

* NB Effective until April 1, 2028

* (2) The fee for a certificate representing that an emissions inspection has been successfully completed shall be set by the commissioner through regulation, at an amount not to exceed two dollars or four dollars if performed on a biennial basis. Such fees shall be

deposited into the mobile source account of the clean air fund established by section ninety-seven-oo of the state finance law.

* NB Effective April 1, 2028

(b) No fee authorized by subdivision (a) of this section shall apply to the state, a city, county, village, town or school district, or any of the departments thereof nor to a certificate issued by a licensed emissions inspection station to such a public entity. A refund may be made, or credit allowed, for unused certificates of inspection, or for certificates lost, mutilated or destroyed, to the extent provided by the regulations promulgated by the commissioner.

(c) The commissioner may establish maximum fees to be charged by an official inspection station. Such fees shall be prominently displayed at such station.

* (d) Fees assessed under this article shall be paid to the commissioner for deposit to the transportation safety account established pursuant to section ninety-one of the state finance law through March thirty-first, two thousand four and from April first, two thousand four and thereafter shall be deposited into the dedicated highway and bridge trust fund, except that fees that are authorized to be collected for each certificate of emissions inspection issued by the commissioner, collected pursuant to paragraph two of subdivision (a) of this section, shall be deposited into the mobile source account of the clean air fund, as established by section ninety-seven-oo of the state finance law.

* NB Effective until April 1, 2028

* (d) Fees assessed under this article shall be paid to the commissioner for deposit to the transportation safety account established pursuant to section ninety-one of the state finance law, except that fees that are authorized to be collected for each certificate of emissions inspection issued by the commissioner, collected pursuant to paragraph two of subdivision (a) of this section, shall be deposited into the mobile source account of the clean air fund, as established by section ninety-seven-oo of the state finance law.

* NB Effective April 1, 2028

§ 306. Enforcement. (a) The commissioner shall suspend or prohibit the

renewal of the registration of any motor vehicle for which a certificate or certificates of inspection has or have not been obtained as required by this article, or the regulations promulgated thereunder, or which is not repaired within the period designated under section three hundred four (b); provided however, the commissioner shall waive the requirement for any repairs to an emissions system beyond the expenditure amount permitted by federal law and regulations once the amount has been expended. The commissioner shall provide for an appeal from a determination related to a request that the repair requirement be waived. No such waiver shall apply to classes of vehicles for which such waiver would be prohibited pursuant to a final decree of a federal court.

(b) No motor vehicle shall be operated or parked on the public highways of this state unless a certificate or certificates of inspection, as required by this article, is or are displayed upon the vehicle or affixed to the registration certificate for the vehicle as may be determined by the commissioner. The commissioner may, by regulation, provide for a temporary indicia of inspection to be placed on a motor vehicle which shall be valid as a certificate of inspection for a period not to exceed fifteen days upon the loss, theft, mutilation or destruction of a certificate of inspection. Any violation of this section that occurs while a motor vehicle is parked on the public highways of this state shall constitute a parking violation. Every agreement for the lease or rental of a motor vehicle for a period of not more than thirty days shall be deemed to provide that the lessor of such vehicle shall, in all respects, be substituted for the lessee or any person operating the vehicle in conformity with the lease or rental agreement in connection with any charge of violating this section, provided that any summons issued to the operator for violation of this section is turned over to the lessor. A violation of this subdivision shall be punishable by a fine of not less than fifty nor more than one hundred dollars for a first offense, and by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not more than fifteen days, or by both such fine and imprisonment, for each subsequent offense; provided however, that if the vehicle bears a certificate or certificates of inspection which was or were valid within the last sixty days, such violation shall be punishable by a fine of not

less than twenty-five nor more than fifty dollars.

(c) No motor vehicle shall be registered in this state unless a valid certificate or certificates of inspection is or are in force therefor, except where the vehicle is outside the state at the time of application for registration and the owner has secured from the commissioner a written extension of the time for inspection of such vehicle.

(d) No person shall issue a certificate or certificates of inspection, inspection extension, or rejection notice without having made a complete inspection or inspections in conformity with the rules and regulations established by the commissioner, or shall wilfully issue a certificate or certificates of inspection for a motor vehicle, the mechanisms and other equipment or emissions of which do not comply with the standards prescribed by the rules and regulations established by the commissioner or the commissioner of environmental conservation, or wilfully issue a certificate of inspection extension or rejection notice when the item or items of inspection conform to the standards established by the regulations of the commissioner or wilfully issue a certificate of inspection extension or rejection notice for an item or items for which inspection is not required by the regulations of the commissioner.

(e) Any person who shall make, issue or knowingly use any imitation or counterfeit of an official certificate of inspection, or who shall possess or display or cause or permit to be displayed upon any motor vehicle any certificate of inspection knowing the same to be fictitious or issued without an inspection or required repairs having been made, or, who unlawfully mutilates a valid certificate of inspection or rejection, or who shall knowingly issue, obtain or present a false statement in connection with a waiver authorized by this article, or who unlawfully removes such a certificate from a motor vehicle, shall be guilty of a misdemeanor. The provisions of this subdivision shall also apply to any temporary indicia of inspection provided for by regulation of the commissioner.

(f) Any person who shall display or cause or permit to be displayed any sign, mark or advertisement as an official inspection station unless a license has been issued by the commissioner and is then in effect or who shall transfer or attempt to transfer a license as an official inspection station, or who knowingly makes a false statement in an application for a license for an official inspection station, or renewal

thereof, shall be guilty of a misdemeanor.

§ 307. Voluntary inspection. The owner of any motor vehicle, as defined in article one of this chapter, whose motor vehicle is not required to be inspected and certified pursuant to this article or who has previously complied therewith may, nevertheless, voluntarily comply with the provisions of this article as often as he desires, and in the same manner as though such inspection and certification were so required.

§ 308. Definitions. As used in this article the term "motor vehicle" shall include trailers and all vehicles included in the definition of the term "motor vehicle" contained in section one hundred twenty-five of this chapter except the following:

1. Road rollers, tractor cranes, truck cranes, power shovels, road building machines, snow plows, road sweepers, sand spreaders, well drillers, well servicing rigs, feed processing machines, mobile car crushers, earth movers, trucks with small wheels used in a factory, warehouse or railroad station, agricultural spreaders and sprayers, or a tractor-trailer combination designed and used exclusively for the same purpose as a vehicle specifically included in the foregoing, or

2. Vehicles inspected by or operating under a certificate of inspection authorized by the commissioner of transportation or the interstate commerce commission, or of a municipally owned and operated transit system, or

3. Farm vehicles registered under subdivision thirteen of section four hundred one of this chapter, self-propelled combines, self-propelled corn and hay harvesting machines and tractors used exclusively for agricultural purposes, or

4. Vehicles subject to inspection and licensing by local authorities provided such inspection by such local authorities conforms with the

standards established by the commissioner under this article, or

5. Fire vehicles, except ambulances; or

6. Police vehicles for which the department operating such vehicles has submitted a plan approved by the commissioner, who shall establish the standards therefor, for periodic inspection thereof. Such plans shall be submitted to the commissioner by September thirtieth of each year. In determining the acceptability of such inspection plans and in establishing standards therefor, the commissioner shall require that such periodic inspections shall be substantially equivalent to inspections required for other motor vehicles under this article and shall be made with respect to such mechanisms and equipment as shall be determined by the commissioner to be necessary for the proper and safe operation of such vehicles.

§ 308-a. Mandatory reporting. If any motor vehicle is presented for inspection at a licensed official inspection station, and such vehicle has been altered, a vehicle commonly referred to as a "stretch limousine", so as to add seating capacity beyond that provided by the original manufacturer by way of an extended chassis, lengthened wheel base, or an elongated seating area, and in the case of a truck, has been modified to transport passengers, such licensed official inspection station shall refuse inspection for such vehicle and promptly report such vehicle to the commissioner in a form and manner prescribed by such commissioner. Provided, however, that the provisions of this section shall not apply to any altered motor vehicle for which the department of transportation has issued an exemption letter pursuant to paragraph three of subdivision (f) of part 79.20 of title fifteen of the codes, rules, and regulations of the state of New York and that is in compliance with part 567 of title forty-nine of the code of federal regulations.

ARTICLE 5-A

Section 309. Legislative findings.

309-a. Establishment of experimental motor vehicle inspection stations.
309-b. Federal funds.
309-c. Contracts.
309-d. Fees.
309-e. Reports.

§ 309. Legislative findings. 1. The legislature hereby finds and declares that the safety of the motoring public depends on a modern system of periodic motor vehicle inspection.

2. In nineteen hundred fifty-nine New York state recognized the need for inspection of motor vehicles to assure its citizens that their safety would be protected by removing from its highways those cars whose mechanical condition did not meet rigid standards of safety.

3. The introduction of anti-pollution devices and newly developed safety attachments to modern automobiles requires that experimental inspection stations be established to permit the testing of new methods of periodic motor vehicle inspection.

4. The creation of new techniques of periodic motor vehicle inspection has become the concern of the federal government, and federal funds are now available for the development of criteria for modern inspection methods. Therefore, legislation should be enacted to promote the advancement of the periodic motor vehicle inspection program in New York state.

§ 309-a. Establishment of experimental motor vehicle inspection stations. The commissioner of motor vehicles is hereby directed to establish, maintain and/or conduct experimental motor vehicle inspection stations, by contract or pursuant to an appropriation made therefor, for the purpose of making the inspection prescribed by article five of the vehicle and traffic law and for the purpose of issuing certificates of inspection.

§ 309-b. Federal funds. The commissioner is hereby authorized to seek and obtain federal funds to establish, maintain and/or conduct such experimental motor vehicle inspection stations.

§ 309-c. Contracts. The commissioner may in his discretion enter into contracts with other outside agencies to provide testing devices, supply facilities, maintain and conduct experimental motor vehicle inspections under his direction and supervision.

§ 309-d. Fees. The schedule of fees charged by such an experimental motor vehicle inspection station for making the inspection required shall be subject to the approval of the commissioner, provided, however, that such fees shall provide sufficient revenue, either by themselves or when combined with any federal funds made available to the commissioner, to meet the total costs of the experimental motor vehicle inspection program herein established.

§ 309-e. Reports. The commissioner shall, not later than January first, nineteen hundred seventy-eight, submit to the governor and to the legislature a report on the operation and maintenance of such stations.

ARTICLE 6

MOTOR VEHICLE FINANCIAL SECURITY ACT

Section 310. Short title and declaration of purpose.
311. Definitions.
312. Registration of motor vehicles.
312-a. Issuance and termination of liability insurance and maintenance of records.
313. Notice of termination.
314. Acceptance of financial security deposits.
315. Release of financial security bonds or deposits.

316. Self-insurers.
317. Expenses of administering article.
318. Revocation of registrations, drivers' licenses and non-resident privileges.
319. Penalties.
320. Notice to other jurisdictions.
321. Exceptions.

§ 310. Short title and declaration of purpose. (1) This article shall be known and may be cited as the "Motor Vehicle Financial Security Act."

(2) Declaration of purpose. The legislature is concerned over the rising toll of motor vehicle accidents and the suffering and loss thereby inflicted. The legislature determines that it is a matter of grave concern that motorists shall be financially able to respond in damages for their negligent acts, so that innocent victims of motor vehicle accidents may be recompensed for the injury and financial loss inflicted upon them. The legislature finds and declares that the public interest can best be served in satisfying the insurance requirements of this article by private enterprise operating in a competitive market to provide proof of financial security through the methods prescribed herein.

Nothing in this article shall be construed to affect any change in the application of article twenty-three of the insurance law to automobile liability insurance rate-making or to effect the development of various methods of doing or operating an automobile liability insurance business.

§ 311. Definitions. As used in this article:

1. The term "superintendent" shall mean the superintendent of financial services of this state.

2. The term "motor vehicle" shall be defined as in section one hundred twenty-five of this chapter, except that it shall also include trailers,

semi-trailers and tractors other than tractors used exclusively for agricultural purposes, and shall exclude fire and police vehicles, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, tractors used exclusively for agricultural purposes, or for snow plowing other than for hire, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

3. The term "proof of financial security" shall mean proof of ability to respond in damages for liability arising out of the ownership, maintenance or use of a motor vehicle as evidenced by an owner's policy of liability insurance, a financial security bond, a financial security deposit, or qualifications as a self-insurer under section three hundred sixteen of this chapter or, in the case of a non-resident, under self-insurance provisions of the laws of the jurisdiction of such non-resident. Notwithstanding any other provision of any law or regulation, any proof of financial security shall for any self-propelled motor vehicle also provide coverage required by this article to any non-commercial trailer hauled by any such motor vehicle, other than a mobile home. For the purposes of this article, a mobile home or "manufactured home" means a mobile home or manufactured home as defined in section one hundred twenty-two-c of this chapter.

4. The term "owner's policy of liability insurance" shall mean a policy

(a) Affording coverage as defined in the minimum provisions prescribed in a regulation which shall be promulgated by the superintendent at least ninety days prior to effective date of this act. The superintendent before promulgating such regulations or any amendment thereof, shall consult with all insurers licensed to write automobile liability insurance in this state and shall not prescribe minimum provisions which fail to reflect the provisions of automobile liability insurance policies, other than motor vehicle liability policies as defined in section three hundred forty-five of this chapter, issued within this state at the date of such regulation or amendment thereof. Nothing contained in such regulation or in this article shall prohibit any insurer from affording coverage under an owner's policy of liability

insurance more liberal than that required by said minimum provisions. Every such owner's policy of liability insurance shall provide insurance subject to said regulation against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of a specific motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or the Dominion of Canada, subject to a limit, exclusive of interest and costs, with respect to each such motor vehicle except a tow truck, of twenty-five thousand dollars because of bodily injuries to and fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, to a limit of fifty thousand dollars because of bodily injury to and one hundred thousand dollars because of death of two or more persons in any one accident, and to a limit of ten thousand dollars because of injury to or destruction of property of others in any one accident provided, however, that such policy need not be for a period coterminous with the registration period of the vehicle insured. The limit, exclusive of interest and costs, with respect to a tow truck shall be a combined single limit of at least three hundred thousand dollars because of bodily injury or death to one or more persons or because of injury or destruction of property of others in any one accident, and to a limit of twenty-five thousand dollars because of damage to a vehicle in the care, custody and control of the insured. Any insurer authorized to issue an owner's policy of liability insurance as provided for in this article may, pending the issue of such a policy, make an agreement, to be known as a binder, or may, in lieu of such a policy, issue a renewal endorsement or evidence of renewal of an existing policy; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this article shall apply to such binders, renewal endorsements or evidences of renewal. Every such policy issued insuring private passenger vehicles and every renewal policy, renewal endorsement, or other evidence of renewal issued shall have attached thereto a rating information form which clearly specifies and defines the rating classification assigned thereto, including any applicable merit rating plan; and

(b) In the case of a vehicle registered in this state, a policy issued by (i) an insurer duly authorized to transact business in this state or (ii) where a vehicle is registered by a not-for-profit organization that is tax-exempt under section 501(c)(3) of the federal internal revenue code, a risk retention group not chartered in this state but which is registered with the superintendent under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code, provided that the vehicle being registered does not have a seating capacity of more than fifteen passengers, is not a limousine or luxury limousine, and where such vehicles are not solely for personal use by a director, officer, authorized person, or key person, their relatives or related parties; or

(c) In the case of a vehicle lawfully registered in another state, or in both this state and another state, (i) a policy issued by an authorized insurer, or (ii) where a vehicle is registered by a not-for-profit organization that is tax-exempt under section 501(c)(3) of the federal internal revenue code, a risk retention group not chartered in this state but which is registered with the superintendent under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code, provided that the vehicle being registered does not have a seating capacity of more than fifteen passengers, is not a limousine or luxury limousine, and where such vehicles are not solely for personal use by a director, officer, authorized person, or key person, their relatives or related parties, or (iii) a policy issued by an unauthorized insurer authorized to transact business in another state if such unauthorized insurer files with the commissioner in form to be approved by them a statement consenting to service of process and declaring its policies shall be deemed to be varied to comply with the requirements of this article; and

(d) The form of which has been approved by the superintendent, except in the case of a risk retention group not chartered in this state. No

such policy shall be issued or delivered in this state until a copy of the form of policy shall have been on file with the superintendent for at least thirty days, unless sooner approved in writing by the superintendent, nor if within said period of thirty days the superintendent shall have notified the carrier in writing that in the superintendent's opinion, specifying the reasons therefor, the form of policy does not comply with the laws of this state.

5. The term "certificate of insurance" shall mean any evidence issued by or on behalf of an insurance company duly authorized to transact business in this state, or a risk retention group authorized to issue an owner's policy of liability insurance pursuant to subdivision four of this section, stating in such form as the commissioner may prescribe or approve that such company or such risk retention group has issued an owner's policy of liability insurance on the motor vehicle or vehicles designated therein. Such certificate shall contain information as required by the commissioner including at least the following except as otherwise provided:

(a) The name and address of the person to whom the policy was issued.

(b) The number and effective period of the policy. If all of the motor vehicles owned by one person during a defined period are insured under the same owner's policy of liability insurance the certificate of insurance may so state and it shall then not be necessary to identify the specific vehicle insured. The requirements of this article for an owner's policy of liability insurance may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(c) As to new policies, a statement that at least ten per cent of the annual premium due on the policy has been paid. For the purposes of this paragraph a transfer of insurance from one company to another by an agent or broker shall not be considered the issuance of a new policy.

6. The term "financial security bond" shall mean for each motor vehicle a bond executed by the owner and by a surety company duly authorized to transact business in this state. The provisions of subdivision (e) of section three hundred forty-nine of this chapter shall apply to such bond.

7. The term "financial security deposit" shall mean for each motor vehicle the deposit with the commissioner of twenty-five thousand dollars in cash, or securities, such as may legally be purchased by savings banks or trust funds, of a market value of twenty-five thousand dollars and an additional deposit in an amount determined by the commissioner to be sufficient to satisfy the requirements of article fifty-one of the insurance law.

8. The term "self-insurer" shall mean a person who shall have been determined by the commissioner in accordance with section three hundred sixteen to be financially responsible.

9. The word "state" when used in this article shall unless the context clearly indicates otherwise, mean any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada.

10. "Insurance Identification Card" shall mean a card issued by or on behalf of an insurance company or bonding company duly authorized to transact business in this state, or a risk retention group authorized to issue an owner's policy of liability insurance pursuant to subdivision four of this section, stating in such form as the commissioner may prescribe or approve that such company or such risk retention group has issued an owner's policy of liability insurance or a financial security bond on the motor vehicle or vehicles designated therein. Such card shall contain such information and shall be valid during such period as may be prescribed by the commissioner. If an owner shall have filed a financial security deposit, or shall have qualified as a self-insurer under section three hundred sixteen of this article, the term "insurance identification card" shall mean a card issued by the department which evidences that such deposit has been filed or that such owner has so qualified.

§ 312. Registration of motor vehicles. 1. (a) No motor vehicle shall be registered in this state unless the application for such registration

is accompanied by proof of financial security which shall be evidenced by proof of insurance or evidence of a financial security bond, a financial security deposit or qualification as a self-insurer under section three hundred sixteen; provided that, if directed by regulation of the commissioner, upon renewal of registration an application accompanied by a certificate of registration or renewal stub in force immediately preceding the date of application for renewal, together with a statement in a form prescribed by the commissioner certifying that there is in effect proof of financial security, shall meet the requirements of this section. Upon the issuance or renewal of a private passenger automobile insurance policy subject to the provisions of section one hundred sixty-seven-aa of the insurance law, the insurance company shall provide the insured with an informational statement outlining the legal and financial consequences of convictions under section one thousand one hundred ninety-two of this chapter, pertaining to operating a motor vehicle while under the influence of alcohol or drugs. Such information shall be supplied to the company by the state department of financial services in consultation with the commissioner.

(b) The owner of such motor vehicle shall maintain proof of financial security continuously throughout the registration period and his failure to produce proof of financial security when requested to do so upon demand of a magistrate, motor vehicle inspector, peace officer, acting pursuant to his special duties, or police officer, while such vehicle is being operated upon the public highway, shall be presumptive evidence of operating a motor vehicle without proof of financial security. Upon the production of proof of financial security such presumption is removed. Production of proof of financial security may be made by mailing such proof to the court having jurisdiction in the matter, and any necessary response by such court or acknowledgement of the production of such proof may also be made by mail. When insurance with respect to any motor vehicle, other than a motorcycle, is terminated the owner shall surrender forthwith his registration certificate and number plates of the vehicle to the commissioner unless proof of financial security otherwise is maintained in compliance with this article.

2. No financial security bond shall be accepted by the commissioner unless it is conditioned for payments in amount and under the same terms

and conditions as are required for an owner's policy of liability insurance.

3. No financial security deposit shall be accepted by the commissioner except in accordance with the provisions of section three hundred fourteen.

4. The commissioner is hereby authorized to promulgate reasonable regulations to provide effective administration and enforcement of the provisions of this article in accordance with the purposes thereof.

5. Notwithstanding any inconsistent provisions of this article, the commissioner may by regulation, in lieu of the provisions of subdivision one requiring the submission of a certificate of insurance or evidence of a financial security bond, require that an insurance identification card be presented each time a vehicle is registered or a registration is renewed in this state.

§ 312-a. Issuance and termination of liability insurance and maintenance of records. * 1. Upon issuance of an owner's policy of liability insurance or other financial security required by this chapter, an insurer shall issue proof of insurance in accordance with the regulations promulgated by the commissioner pursuant to paragraph (b) of subdivision two of section three hundred thirteen of this article.

* NB Effective until December 31, 2028

* 1. Upon issuance of an owner's policy of liability insurance or other financial security required by this chapter, an insurer shall issue proof of insurance in accordance with the regulations promulgated by the commissioner pursuant to subdivision two of section three hundred thirteen of this article.

* NB Effective December 31, 2028

2. The commissioner shall make a record of all notices of termination received by him. After such record has been made, the notices need not be retained by the commissioner.

§ 313. Notice of termination. 1. (a) No contract of insurance for which a certificate of insurance has been filed with the commissioner shall be terminated by cancellation by the insurer until at least twenty days after mailing to the named insured at the address shown on the policy a notice of termination by regular mail, with a certificate of mailing, properly endorsed by the postal service to be obtained, except where the cancellation is for non-payment of premium in which case fifteen days notice of cancellation by the insurer shall be sufficient, provided, however, if another insurance contract has been procured, such other insurance contract shall, as of its effective date and hour, terminate the insurance previously in effect with respect to any motor vehicles designated in both contracts. No contract of insurance for which a certificate of insurance has been filed with the commissioner in which a natural person is the named insured and the motor vehicle is used predominantly for non-business purposes shall be non-renewed by an insurer unless at least forty-five, but not more than sixty days in advance of the renewal date the insurer mails or delivers to the named insured at the address shown on the policy a written notice of its intention not to renew. No such contract of insurance in which the named insured is not a natural person or the motor vehicle is used predominantly for business purposes shall be non-renewed by an insurer unless at least twenty days in advance of the renewal date the insurer mails or delivers to the named insured at the address shown on the policy a written notice of its intention not to renew. All notices of non-renewal shall be sent by regular mail with a certificate of mailing, properly endorsed by the postal service to be obtained. Time of the effective date and hour of termination stated in the notice shall become the end of the policy period. Every notice or acknowledgement of termination for any cause whatsoever sent to the insured shall include in type of which the face shall not be smaller than twelve point a statement that proof of financial security is required to be maintained continuously throughout the registration period and a notice prescribed by the commissioner indicating the punitive effects of failure to maintain continuous proof of financial security and actions which may be taken by the insured to avoid such punitive effects.

(b) Every insurer shall retain a copy of the notice of termination mailed pursuant to this chapter and shall retain the certificate of mailing obtained from the postal service upon the mailing of the original of said notice. A copy of a notice of termination and the certificate of mailing, when kept in the regular course of the insurer's business, shall constitute conclusive proof of compliance with the mailing requirements of this chapter.

* 2. (a) Upon the termination of an owner's policy of liability insurance, other than an owner's policy of liability insurance for a motorcycle, at the request of the insured or by cancellation by the insurer, the insurer shall file a notice of termination with reference to such policy, as opposed to any insured vehicle or vehicles under such policy, with the commissioner not later than thirty days following the effective date of such cancellation or other termination, in accordance with the regulations required by paragraph (c) of this subdivision. An insurer shall not file a notice of termination with the commissioner except as required by this subdivision.

(b) Upon the issuance of an owner's policy of liability insurance the insurer shall file a notice or confirmation of issuance with reference to such policy not later than fourteen days following the effective date of such issuance, and not later than seven days following the effective date for policies issued after January first, two thousand one, in accordance with the regulations required by paragraph (c) of this subdivision.

(c) The commissioner shall promulgate regulations establishing procedures for issuance of proof of insurance and for reporting by insurers of notices of termination and policy issuance, either electronically or by paper copy, at the option of the department. Such reporting shall be required for every cancellation or termination which is effective on or after July first, nineteen hundred eighty-four and for every policy issuance which is effective on or after January first, two thousand; provided, however, that should the commissioner find, after testing of reporting procedures, that it would be feasible to require reporting for policy cancellations, terminations or issuances effective on an earlier date, he may by regulation so require reporting on such earlier date, but in no event shall reporting be required for cancellations or terminations effective prior to February first,

nineteen hundred eighty-four nor for policy issuances effective prior to September first, nineteen hundred ninety-nine. Insurers shall cooperate fully with the commissioner in any such testing of reporting procedures.

(d) Upon application by an insurer, the commissioner may extend the period for filing of notices of termination by such insurer for up to fifteen days, and for seven days for policies issued by an insurer. Extensions shall not be granted unless the insurer demonstrates to the satisfaction of the commissioner that compliance with the notice period would result in substantial hardship to the insurer. The commissioner shall maintain a list of extensions granted pursuant to this paragraph.

* NB Effective until December 31, 2028

* 2. The commissioner shall promulgate regulations establishing procedures for issuance of proof of insurance.

* NB Effective December 31, 2028

* 3. A cancellation or termination for which notice is required to be filed with the commissioner pursuant to subdivision two of this section shall not be effective with respect to persons other than the named insured and members of the insured's household until the insurer has filed a notice thereof with the commissioner or until another insurance policy covering the same risk has been procured, except that a notice filed with the commissioner, in the format prescribed by the commissioner, within the period prescribed in subdivision two of this section shall be effective as of the date certified therein, regardless of whether a suspension order is issued pursuant to section three hundred eighteen of this article. A receipt from the department stating that a notice of termination has been filed shall be deemed conclusive evidence of such filing. An insurer shall cooperate with the commissioner in attempting to identify persons not in compliance with this article in cases where the information reported by the insurer does not correspond with records maintained by the department.

* NB Effective until December 31, 2028

* 3. A cancellation or termination for which notice is required to be filed with the commissioner shall not be effective with respect to persons other than the named insured and members of the insured's household until the insurer has filed a notice thereof with the commissioner or until another insurance policy covering the same risk has been procured, except that a notice filed with the commissioner, in

the format prescribed by the commissioner, shall be effective as of the date certified therein, regardless of whether a suspension order is issued pursuant to section three hundred eighteen of this article. A receipt from the department stating that a notice of termination has been filed shall be deemed conclusive evidence of such filing. An insurer shall cooperate with the commissioner in attempting to identify persons not in compliance with this article in cases where the information reported by the insurer does not correspond with records maintained by the department.

* NB Effective December 31, 2028

* 4. Notwithstanding any other provision of this article to the contrary, the commissioner shall establish a pilot program to maintain an up-to-date insured vehicle identification database to assist in identifying uninsured motor vehicles. Such databases shall be implemented by the department pursuant to standards prescribed by the commissioner or an agent designated by the commissioner which shall seek technical assistance from affected insurers and the New York Automobile Insurance Plan. This program shall utilize all information collected pursuant to this section and shall also include the following elements:

(a) In addition to and in conjunction with the provisions of subdivision two of this section, insurers that write private passenger or commercial motor vehicle insurance in this state shall also submit to the department, either electronically or by paper copy, at the option of the department, information that identifies those policies that have been cancelled, terminated or non-renewed and all policies that have been issued, the date when such insurance lapses, and any other information that the commissioner deems necessary to efficiently identify and track uninsured vehicles in this state such as a policyholder's address, policy number, vehicle registration number, and vehicle identification number. The department may exempt from such pilot program the transfer of information on certain classifications of vehicles that are in the opinion of the department generally insured and which it is difficult to identify uninsured vehicles within such classification, such as large commercial vehicle fleets;

(b) The department shall forward to each motor vehicle insurer, at such times as deemed necessary and appropriate by the commissioner, a listing of all the registrants the department has on file as insured

with that insurer. Such insurer shall then review the listing within thirty days of receipt of the listing and report to the department which of the registrants the insurer does not insure;

(c) The commissioner shall, in conjunction with the superintendent of state police and local law enforcement officials formulate a means to allow such database to be easily accessible to on-duty law enforcement personnel in the performance of their official duties for the purpose of verifying whether an operator maintains proper insurance coverage and to increase compliance with the motor vehicle financial security laws under this article and article eight of this title;

(d) In developing the mechanism to electronically transfer information to the department, the commissioner shall consult with the superintendent of financial services and insurers to adopt a standardized system of organizing, recording and transferring such information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators;

(e)(1) Either simultaneously or after the up-dated database system has been established, the commissioner shall develop a computer indicator that can be imprinted on a vehicle registration sticker or on a sticker to be affixed to the insured's license plate. Such indicator system shall enable law enforcement personnel and other authorized persons when acting in the course of their official duties to access the department's database so that such persons can ascertain whether a vehicle is properly insured or not insured;

(2) Such computer indicator system shall enable authorized persons in the performance of their official duties to access information such as the registrant's name, vehicle identification number, name of insurer, current status of insurance, vehicle registration number and other information that the commissioner deems necessary to implement the provisions of this section. The commissioner in developing such computer indicator system shall enable authorized persons in the performance of their official duties to access only such information that is necessary to detect uninsured motor vehicles or accomplish other goals clearly established and authorized by law. Such computer indicator system shall

be designed to protect the personal privacy interests of motorists;

(f) The commissioner shall maintain an insured vehicle database system that is accurate to within a period of fourteen days and a computer indicator system described in paragraph (e) of this subdivision within twenty-four months of the effective date of this subdivision and to within seven days by January first, two thousand one. The commissioner shall submit to the legislature a report within eighteen months from the date this subdivision takes effect which outlines the progress being made to implement such database and computer indicator system. After such database and computer indicator system is established and put into operation, the commissioner shall make recommendations to the legislature to alter, minimize or eliminate the need for the issuance of insurance identification cards, simplify the requirements to demonstrate proof of financial security and certificate of insurance currently required by this article, eliminate the requirement for production of proof of financial security to accompany applications for registrations or renewals thereof provided that such database indicates that the registrant is insured, and the repeal or modification of section three hundred twelve-a of this article. The commissioner shall also make recommendations to the legislature to streamline and shorten the notice termination requirements of subdivisions one, two and three of this section and section three hundred eighteen of this article. Such report shall be submitted to the legislature within twelve months from the date such database and indicator system has been implemented;

(g) To minimize the cost of this program, the commissioner, if he deems it necessary and prudent, can initially limit the scope of this project to a select number of vehicle classifications or insurers;

(h) Notwithstanding any other provision of law, information obtained by the department pursuant to this section shall not be disclosed, used, sold, accessed, utilized in any manner or released by the department to any person, corporation, or state and local agency, except in response to a specific, individual request for such information authorized pursuant to the federal driver's privacy protection act (18 U.S.C. 2721 et.seq.). The department shall institute measures to ensure that only authorized persons are permitted to access such information for the purposes specified by this section. Persons who knowingly release or disclose information from such database for a purpose other than those

described as authorized by this section or to a person not entitled to receive it shall be guilty of a misdemeanor for each such release or disclosure; and

(i) The commissioner may postpone implementation of such pilot database and computer indicator system for a period of time not to exceed eighteen months if he or she determines that the program is not ready for implementation. Should the commissioner determine that such system cannot be implemented during the eighteen months extension, then the commissioner shall report to the legislature the reasons why such program cannot be implemented and request that the law be amended to delay its implementation date.

* NB Effective until December 31, 2028

* 4. Notwithstanding any other provision of this article to the contrary, the commissioner shall establish a system for the online verification of motor vehicle liability insurance to enable the commissioner to access up-to-date insured vehicle identification information to assist in identifying uninsured motor vehicles, and shall verify motor vehicle owners' policies of liability insurance through the utilization of such online verification system. Such online verification system shall be implemented by the department pursuant to standards prescribed by the commissioner who shall seek technical assistance from affected insurers and the New York Automobile Insurance Plan. This online verification system shall utilize all information collected pursuant to this section and shall also include the following elements:

(a) Insurers that write private passenger or commercial motor vehicle insurance in this state shall, with respect to every motor vehicle insured by such insurer in the state and in compliance with any rules and regulations promulgated by the commissioner for the online verification system established pursuant to this subdivision, provide the commissioner access to information that identifies those motor vehicle liability insurance policies that have been cancelled, terminated or non-renewed and all such policies that have been issued, the date when such insurance lapses, and any other information that the commissioner deems necessary to efficiently identify and track uninsured vehicles in this state such as a policyholder's address, policy number, vehicle registration number, and vehicle identification number. The department may exempt from such online verification system the transfer

of information on certain classifications of vehicles that are in the opinion of the department generally insured and which it is difficult to identify uninsured vehicles within such classification, such as large commercial vehicle fleets;

(b) The commissioner shall, in conjunction with the superintendent of state police and local law enforcement officials formulate a means to allow information from such online verification system to be easily accessible to on-duty law enforcement personnel in the performance of their official duties for the purpose of verifying whether an operator maintains proper insurance coverage and to increase compliance with the motor vehicle financial security laws under this article and article eight of this title;

(c) In developing the mechanism for such online verification system to electronically transfer information to the department, the commissioner shall consult with the superintendent of financial services and insurers to adopt a standardized system of organizing, recording and transferring such information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators;

(d)(1) Either simultaneously or after the online verification system has been established, the commissioner shall develop a computer indicator that can be imprinted on a vehicle registration sticker or on a sticker to be affixed to the insured's license plate. Such indicator system shall enable law enforcement personnel and other authorized persons when acting in the course of their official duties to access information in the department's online verification system so that such persons can ascertain whether a vehicle is properly insured or not insured;

(2) Such computer indicator system shall enable authorized persons in the performance of their official duties to access information such as the registrant's name, vehicle identification number, name of insurer, current status of insurance, vehicle registration number and other information that the commissioner deems necessary to implement the provisions of this section. The commissioner in developing such computer indicator system shall enable authorized persons in the performance of

their official duties to access only such information that is necessary to detect uninsured motor vehicles or accomplish other goals clearly established and authorized by law. Such computer indicator system shall be designed to protect the personal privacy interests of motorists;

(e) (i) The commissioner shall maintain such online verification system which shall be accurate to within a period of seven days;

(ii) The commissioner shall provide that such online verification system shall, at a minimum:

(1) have the capability for the department to send requests to motor vehicle insurers for verification of evidence of a motor vehicle owner's policy of liability insurance as prescribed by this chapter via web services, through the internet, or a similar proprietary or common carrier electronic system, as well as to receive from motor vehicle insurers verification of evidence of a motor vehicle owner's policy of liability insurance in a form and manner as prescribed by the commissioner;

(2) incorporate information security protections for such system. For the purposes of this section, "information security" shall mean protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide (A) integrity, which shall mean guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity, (B) confidentiality, which shall mean preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information, and (C) availability, which shall mean ensuring timely and reliable access to and use of information as authorized by this subdivision;

(3) have the capability of being utilized for verification of mandatory motor vehicle liability insurance coverage as prescribed by this chapter and the ability to be interfaced, wherever authorized by law, with existing or future state systems, in a form and manner as prescribed by the commissioner;

(4) have the capability of enabling the department to make inquiries to motor vehicle insurers for evidence of a motor vehicle owner's policy of liability insurance as set forth in paragraph (a) of this subdivision;

(5) have the capability of responding to each request of the department for motor vehicle liability insurance information within an amount of time determined by the commissioner; and

(6) have the capability of responding within the time established;

(f) Notwithstanding any other provision of law, information obtained by the department pursuant to this section shall not be disclosed, used, sold, accessed, utilized in any manner or released by the department to any person, corporation, or state and local agency, except in response to a specific, individual request for such information authorized pursuant to the federal driver's privacy protection act (18 U.S.C. 2721 et.seq.). The department shall institute measures to ensure that only authorized persons are permitted to access such information for the purposes specified by this section. Persons who knowingly release or disclose information from such online verification system for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a misdemeanor for each such release or disclosure; and

(g) Undergo an appropriate testing and pilot period of not less than one year, after which the commissioner shall certify in writing to the governor, the temporary president of the senate, and the speaker of the assembly that such system is fully operational.

* NB Effective December 31, 2028

§ 314. Acceptance of financial security deposits. 1. All moneys or securities delivered to the commissioner as a financial security deposit shall be placed by the commissioner in the custody of the commissioner of taxation and finance and shall be subject to execution to satisfy any judgment for damages for bodily injury or death, or injury to or destruction of property, arising out of the ownership, maintenance, use or operation of the motor vehicle with respect to which the deposit has been accepted, and subject to the same limits on amounts required by this article for an owner's policy of liability insurance, and if such moneys or securities shall be otherwise subjected to attachment or any execution, the depositor shall immediately furnish such additional moneys or securities, not otherwise subject to attachment or execution, to meet the requirements of this article.

2. The commissioner shall not accept such moneys or securities as a financial security deposit unless accompanied by evidence that there are no unsatisfied judgments against such person registered in the office of the county clerk of the county where such person resides.

§ 315. Release of financial security bonds or deposits. 1. The commissioner, upon the surrender of the registration and number plates for a motor vehicle for which a financial security bond or deposit was accepted by the commissioner, shall permit the cancellation of any such bond or shall direct that any such deposit be returned by the commissioner of taxation and finance. The commissioner shall not release such bond or deposit in the event any action for damages upon a liability referred to in this article is then pending or any judgment upon any such liability then outstanding and unsatisfied, or in the event the commissioner has received notice that such person has within the period of three months immediately preceding been involved as a driver in any motor vehicle accident. An affidavit of the applicant of non-existence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the bureau.

2. The commissioner, subject to such reasonable regulations as he may establish shall permit the form of proof of financial security acceptable under this article to be substituted for another form of proof of financial security which may already have been accepted by the commissioner as complying with the provisions of this article.

§ 316. Self-insurers. The commissioner, in his discretion, may upon the application of a person having registered in his name in this state more than twenty-five motor vehicles, issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments obtained against such person, arising out of the ownership, maintenance, use or operation of any such person's motor vehicles. Upon due notice and hearing, the commissioner may, in his

discretion and upon reasonable grounds, cancel a certificate of self-insurance.

As a condition to the issuance of a certificate of self-insurance, the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in reduction of the assessment levied pursuant to section three hundred seventeen.

As a further condition to the issuance of a certificate of self-insurance, the registrant shall pay annually in addition to any other fee prescribed by this chapter, an amount per vehicle to be determined by the Motor Vehicle Accident Indemnification Corporation pursuant to section five thousand two hundred seven of the insurance law for each motor vehicle registered in his name and the aggregate amount of such fees shall be transmitted by the commissioner to the Motor Vehicle Accident Indemnification Corporation continued pursuant to section five thousand two hundred three of the insurance law to be applied in reduction of assessments levied by said corporation pursuant to section five thousand two hundred seven of the insurance law.

Notwithstanding the provisions of any other section, for the purposes of this section, the term "motor vehicle" shall include "snowmobiles" as defined by subdivision six of § 8-0105 of the conservation law.

§ 317. Expenses of administering article. 1. The total amount of expenses incurred in connection with the administration of this article shall be paid by all insurance carriers which issue policies or contracts of automobile bodily injury insurance risks subject to this article resident or located in this state in accordance with the provisions of this section.

2. Estimate of expenses. (a) The commissioner annually, as soon as practicable, shall estimate the total amount of expenses which shall be incurred during the succeeding fiscal year in connection with the

administration of this article. Such expenses, in addition to the direct costs of personal service, shall include the cost of maintenance and operation, the cost of retirement contributions made and workers' compensation premiums paid by the state for or on account of personnel, rentals for space occupied in state-owned or state-leased buildings, the amounts paid to a city, county, town, village or the division of state police for the enforcement of orders issued pursuant to this article and all other direct or indirect costs.

(b) The commissioner shall on or before February first assess the total amount of such expenses, as so estimated, pro rata upon all insurance carriers subject to the provisions of this section in proportion to the premiums reported by such carriers to the department of financial services for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state for the year prior to the previous calendar year.

(c) For fiscal years beginning on and after April first, nineteen hundred eighty-three, each such insurance carrier shall make partial payments of the assessment levied against it as follows, one-quarter of the total on March tenth of the preceding fiscal year and one-quarter on June tenth, one-quarter on September tenth, and the balance on December tenth of the fiscal year, or on such other dates as the budget director may prescribe. Provided, however, that the payment due March tenth, nineteen hundred eighty-three for the fiscal year beginning April first, nineteen hundred eighty-three shall not be required to be paid until June tenth, nineteen hundred eighty-three. If the total amount due from any such carrier is less than one hundred dollars, no partial payment shall be made and the total amount due shall be paid on or before September thirtieth of the fiscal year.

3. Final assessment. (a) The commissioner and the department of audit and control annually, as soon as practicable after April first, shall ascertain the total amount of expenses incurred during the preceding fiscal year in connection with the administration of this article. An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the commissioner for thirty days after notice to those liable to be assessed for such expenses.

(b) As soon as practicable after January first, each insurance carrier

subject to the provisions of this section shall file with the commissioner a report of the total amount of gross direct premiums, less return premiums thereon received during the preceding calendar year for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state.

(c) The commissioner shall then determine the amount of expenses due from each insurance carrier subject to the provisions of this section based upon the final determination of total expenses and the final amount of premiums filed by the insurance carriers and shall notify each such insurance carrier of such assessment. Within thirty days of receipt of such notification each such carrier shall pay the total amount of such assessment less the total amount paid as a result of the estimated assessments. If the total amount of the final assessment is less than the amount already paid, such excess payment shall be refunded to such insurance carrier or at the option of the assessed applied to assessments for the succeeding fiscal year as requested by such insurance carriers.

* (d) To fully fund such pilot database system and bar code program established pursuant to subdivision four of section three hundred thirteen of this article, the commissioner shall utilize the following three sources of revenue: (1) twenty-five percent of all civil penalties imposed upon persons fined pursuant to paragraph (b) of subdivision one-a of section three hundred eighteen of this article, (2) monies obtained from grants that may be awarded to the commissioner from the motor vehicle theft and insurance fraud prevention fund, and (3) pro rata assessments upon all insurance carriers subject to the provisions of this section in proportion to the premium estimates filed by such carriers.

* NB Effective until December 31, 2028

* (d) To fully fund such system for the online verification of motor vehicle liability insurance and bar code program established pursuant to subdivision four of section three hundred thirteen of this article, the commissioner shall utilize the following three sources of revenue: (1) twenty-five percent of all civil penalties imposed upon persons fined pursuant to paragraph (b) of subdivision one-a of section three hundred eighteen of this article, (2) monies obtained from grants that may be awarded to the commissioner from the motor vehicle theft and insurance

fraud prevention fund, and (3) pro rata assessments upon all insurance carriers subject to the provisions of this section in proportion to the premium estimates filed by such carriers.

* NB Effective December 31, 2028

4. The commissioner shall levy and collect such assessments and pay the same into the state treasury, subject to the provisions of section one hundred twenty-one of the state finance law.

§ 318. Revocation of registrations, drivers' licenses and non-resident privileges. 1. (a) Except as otherwise provided in this subdivision, the commissioner, upon receipt of evidence that proof of financial security for any motor vehicle, other than a motorcycle or a motor vehicle registered with registration plates of this state issued in the year corresponding to the model year date in which the vehicle was manufactured pursuant to schedule G of subdivision seven of section four hundred one of this chapter, registered in this state is no longer in effect shall suspend the registration of such vehicle and the driver's license of the registrant, in accordance with the provisions of subdivision one-a of this section.

(b) Such motor vehicle shall not be registered or reregistered in the name of such person, or in any other name where the commissioner has reasonable grounds to believe that such registration or reregistration will have the effect of defeating the purposes of this article, and no other motor vehicle shall be registered in the name of such person during the period of such suspension.

(c) Suspension shall not be made under this subdivision upon the basis of a lapse or termination of insurance if the registration certificate and number plates of the motor vehicle are surrendered prior to the time at which the termination of insurance becomes effective. Such surrender shall be made to such officers of the department as the commissioner shall direct, but the registrant at his option may surrender the registration and number plates to any county clerk who is acting as an agent of the commissioner pursuant to section two hundred five of this chapter. Such county clerk may accept a surrender of registration and number plates and require the payment of a fee of one dollar whether

such surrender is made before or after the effective date of termination of insurance. The county clerk shall retain any such fee which may have been collected, and shall return such registration certificates and number plates, or dispose of the same, only as prescribed by the commissioner. For the purposes of this section the expiration of a registration without renewal of such registration shall be deemed to be a surrender of registration as of the date of expiration.

(d) Suspension shall not be made under this subdivision upon the basis of a lapse or termination of insurance if the vehicle has been, or will be, prior to the date of such lapse or termination, removed from the United States in North America and the Dominion of Canada for the purpose of international traffic, provided that the owner of such vehicle, prior to the date of such lapse or termination, has filed with the commissioner a statement, in a form prescribed by him, indicating that the vehicle has been, or will be, so removed, and agreeing to notify the commissioner immediately upon return of the vehicle to the United States in North America or the Dominion of Canada. Upon receipt of the foregoing statement the commissioner shall restrict the use of the registration to such international traffic until new proof of financial security has been secured for the vehicle.

(e) Suspension need not be made under this subdivision upon the basis of a lapse or termination of insurance if the period of time during which the motor vehicle remained both registered and uninsured was not more than seven days. The commissioner shall promulgate regulations governing the conditions under which suspension action may be withheld pursuant to this paragraph.

1-a. (a) The suspension of a registration provided in subdivision one of this section shall take effect on the date specified in the order of suspension and shall remain in effect until the registration certificate and number plates of the motor vehicle have been surrendered to the commissioner and thereafter for a period of time equal to the time from the date of termination of financial security to the date of such surrender or to the date upon which subsequent financial security was obtained or to the date on which the registrant no longer had an insurable interest in the vehicle.

(b) Notwithstanding the provisions of paragraph (a) of this

subdivision, an order of suspension issued pursuant to paragraph (a) or (e) of this subdivision may be terminated if the registrant pays to the commissioner a civil penalty in the amount of eight dollars for each day up to thirty days for which financial security was not in effect, plus ten dollars for each day from the thirty-first to the sixtieth day for which financial security was not in effect, plus twelve dollars for each day from the sixty-first to the ninetieth day for which financial security was not in effect. Of each ten dollar penalty collected, eight dollars will be deposited in the general fund and two dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. Of each twelve dollar penalty collected, eight dollars will be deposited into the general fund and four dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. The foregoing provision shall apply only once during any thirty-six month period and only if the registrant surrendered the certificate of registration and number plates to the commissioner not more than ninety days from the date of termination of financial security or submits to the commissioner new proof of financial security which took effect not more than ninety days from the termination of financial security.

(c) No number plates shall be returned to the registrant until proof of financial security is submitted to the commissioner.

(d) The provisions of this subdivision relating to termination of suspension upon payment of a civil penalty shall be applicable to a registrant only one time during any three year period.

(e) If a registrant has not surrendered his certificate of registration and number plates or obtained financial security within ninety days from the date of termination of financial security, the commissioner shall suspend the driver's license of any such registrant. Such suspension shall take effect on the date specified in such order

and shall remain in effect from the date of surrender of such license and thereafter for the period of time of the suspension of the registrant's registration.

(g) Any civil penalty paid pursuant to paragraph (b) of this subdivision shall be separate and distinct from any civil penalty assessed pursuant to subdivision five of section three hundred nineteen of this chapter.

2. (a) The commissioner upon receipt of evidence that the owner of a motor vehicle registered in this state, or an unregistered motor vehicle, has operated, or permitted such motor vehicle to be operated upon the public highways of this or any other state while proof of financial security was not in effect with respect to such vehicle, shall revoke the registration, if any, of the vehicle and the driver's license, if any, of such owner.

(b) Such motor vehicle shall not be registered in the name of such person, or in any other name where the commissioner has reasonable grounds to believe that such registration will have the effect of defeating the purpose of this article, and no other motor vehicle shall be registered in the name of such person, nor any driver's license issued to such person, for a period of one year from the date of such revocation.

3. (a) The commissioner, upon receipt of evidence that a person, other than the owner, has operated upon the public highways of this state a motor vehicle registered in this state, or an unregistered motor vehicle, with knowledge that proof of financial security was not in effect with respect to such vehicle, shall revoke the driver's license of such person, or if he is a non-resident, the non-resident driving privileges of such person.

(b) No new driver's license shall be issued, or non-resident driving privilege restored to such person for a period of one year from the date of such revocation.

(c) This subdivision shall not apply to any person who at the time of operation of such motor vehicle had in effect an operator's policy of liability insurance, as hereinafter defined, with respect to his operation of such vehicle or to a police officer or member of the state

police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person.

4. (a) The commissioner, upon receipt of evidence that the owner of a motor vehicle not registered in this state has operated or permitted such motor vehicle to be operated upon the public highways of this state while proof of financial security was not in effect with respect to such vehicle, shall revoke such person's privilege to operate any motor vehicle in this state and the privilege of the operation within this state of any motor vehicle owned by him.

(b) Such non-resident privileges shall not be restored for a period of one year from the date of such revocation.

5. (a) The commissioner, upon receipt of evidence that a person, other than the owner of the vehicle, has operated upon the public highways of this state a motor vehicle not registered in this state, with knowledge that proof of financial security was not in effect with respect to such vehicle shall revoke the driver's license of such person, or if he is a non-resident, the non-resident privileges of such person.

(b) No new driver's license shall be issued, or non-resident privilege restored to such person for a period of one year from the date of such revocation.

(c) This subdivision shall not apply to any person who at the time of operation of such motor vehicle had in effect an operator's policy of liability insurance, as hereinafter defined, with respect to his operation of such motor vehicle or to a police officer or member of the state police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person.

6. Notice of revocation pursuant to this section may be given to the owner of a vehicle registered in this state or to a driver licensed in this state, by mailing the same to such owner or licensee at the address contained in the certificate of registration for the vehicle owned by such person or to the address contained on his or her driving license or to the current address provided by the United States postal service.

7. Failure of such owner or licensee to deliver a certificate of registration, number plates or driver's license to the commissioner after revocation thereof or as otherwise provided in section three hundred twelve shall constitute a misdemeanor.

8. An operator's policy of liability insurance, as used in this section, shall mean a policy issued by an insurance carrier duly authorized to transact business in the state which shall insure the person named therein as insured, against loss from the liability imposed upon him by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the use by him of any motor vehicle not owned by him, subject to the same minimum provisions and approval required by subdivision four of section three hundred eleven of this chapter, with respect to an owner's policy of liability insurance. With respect to a non-resident, such policy may also be issued by a non-admitted insurance carrier provided the requirements of this article with respect to issuance of an owner's policy of liability insurance by such carrier have been met.

9. (a) If a motor vehicle has been involved in an accident, and its registration or the driver's license of its operator, or both, have been revoked pursuant to this section, then neither such vehicle nor any other motor vehicle shall be registered or reregistered in the name of its owner or of any other person legally responsible for its use, nor shall any driver's license be issued to such owner, person or operator until one year has passed since the date of such revocation and, as the case may be, the commissioner has received the payments and evidence required by paragraph (c) below.

(b) If a motor vehicle not registered in this state is involved in an

accident in this state and the privilege of its operation within this state has been revoked, then neither its owner, any person legally responsible for its use nor its operator shall exercise the privilege of the operation of such vehicle within this state or the privilege of operation within this state of any motor vehicle, until one year has passed since the date of revocation and, as the case may be, the commissioner has received the payments and evidence as required in (c) below.

(c) The payments and evidence referred to in paragraphs (a) and (b) above shall be evidence, satisfactory to the commissioner,

(1) That no cause of action based upon such accident against such owner, person legally responsible or operator has been commenced within a period of one year from the date of the accident or a release thereof has been given to such owner, person or operator, or

(2) That no judgment arising out of such cause of action for amounts within the limits stated in paragraph (a) of subdivision four of section three hundred eleven against such owner, person or operator remains unsatisfied, except that such registration and licensing privileges may be restored on compliance with the procedures permitting the payment of a judgment in installments provided in section three hundred thirty-four and

(3) That all civil penalties required to be paid to the department pursuant to the provisions of subdivision five of section three hundred nineteen of this chapter have been paid.

10. The provisions of subdivision seven of section five hundred ten of this chapter shall apply to a revocation under this article.

11. (a) Where the license or privileges of any person, or the registration of a motor vehicle registered in his name, has been suspended or revoked under article six of this chapter, and the motor vehicle accident indemnification corporation or an insurer has paid any amount towards satisfaction of a judgment against such person, or has obtained a judgment against such person as a result of payments made to third parties such license, privileges or registration shall be suspended, or the suspension or revocation thereof shall be continued, as provided in this subdivision.

(b) If the license, privileges or registration of such person has not been restored, the suspension or revocation thereof shall be continued pending the satisfaction of the requirements of paragraph (d) of this subdivision.

(c) If the license, privileges or registration of such person has been restored, the commissioner shall suspend such license or privilege, and may suspend such registration, pending the satisfaction of the requirements of paragraph (d) of this subdivision.

(d) Such suspensions and revocations shall be continued until such person has repaid to the corporation or to such insurer any amount so paid by it together with interest thereon at six per centum per annum from the date of such payment, unless such person submits to the procedure provided for the payment of judgments in installments under section three hundred thirty-four of this chapter.

(e) A discharge in bankruptcy shall not relieve a person of the penalties and disabilities provided in this article.

12. (a) If the owner or operator of a motor vehicle in any manner involved in an accident occurring in this state resulting in death or bodily injuries to any person fails to produce satisfactory evidence as proof of financial security within forty-eight hours after the accident, the motor vehicle shall be subject to impoundment and any peace officer, acting pursuant to his special duties, or any police officer is authorized to impound and store such motor vehicle. If said motor vehicle is subject to impoundment and is not so impounded, the owner or his representative shall cause said motor vehicle to be stored in a public garage or storage place in this state as selected by the owner or representative and shall continue such storage for the period of time provided in this section. The aforementioned storage shall constitute "impoundment" within the meaning of this section. The cost of storage of any such impounded motor vehicle shall be borne by the owner. So long as the impoundment is in force no person shall remove the impounded vehicle or permit it to be removed from its place of impoundment except upon the order of the commissioner.

(b) Immediately upon impoundment, the owner or his representative shall:

1. Notify the bailee of the impounded motor vehicle of the fact that the same is stored as an impounded vehicle,

2. Notify the commissioner in writing of the street address and city or municipality where said motor vehicle is stored, and

3. If the owner is a resident of this state, return the registration certificate and registration plates with respect to such motor vehicle to the commissioner.

If the owner or his representative fails to store said motor vehicle as required by subdivision (a) and fails to return such registration certificate and registration plates, the commissioner is authorized to direct any peace officer acting pursuant to his special duties, or police officer to impound and store said motor vehicle at the expense of the owner and to take possession of the registration certificate and registration plates and return the same to the commissioner of motor vehicles.

(c) The impoundment shall continue until (1) there is a final disposition of the claim for death or bodily injury of the person, resulting from the accident in which said motor vehicle was involved, by payment of a judgment or settlement by the owner, or by a final judgment in his favor, or (2) one year has elapsed since the date of the accident and no filing has been made pursuant to section five thousand two hundred eight of the insurance law, or (3) a release of the motor vehicle upon order of the commissioner. The commissioner may order the release of said motor vehicle upon the depositing with the commissioner of taxation and finance of security or a bond in such form and amount as may be approved by the commissioner. If said motor vehicle is not released from impoundment after the lapse of one year, the commissioner may dispose of it by public sale and remit the proceeds from the sale to the commissioner of taxation and finance to be held pending the final disposition of the claim.

(d) If repairs to an impounded motor vehicle are desired by the owner, he, with the permission of the commissioner, may authorize the motor vehicle to be taken to such repair shop or garage as he may select for the purpose of having it repaired at the owner's expense. Upon

completion of such repairs, the motor vehicle shall be impounded as provided in subdivision (a).

Where the commissioner is satisfied by such evidence as he deems sufficient, that any motor vehicle is so damaged that it cannot be restored to operable condition, he may, in his discretion, upon such conditions as he deems proper, consent to the release of said motor vehicle from impoundment.

(e) No owner of a motor vehicle subject to impoundment hereunder shall transfer title to said motor vehicle nor his interest therein unless he furnishes to the commissioner security, in an amount which the commissioner is satisfied is equivalent to the value of said vehicle or his interest therein.

(f) Nothing herein contained shall affect the rights or remedies of any person holding a prior valid lien on an impounded vehicle, including the right to take possession, existing at the effective date of this section or the right of the bailee to a lien for storage of the impounded vehicle; provided, that such person shall, after the sale of such vehicle for the satisfaction of any liens thereon, remit to the commissioner as deposits of security under this article on behalf of the former owner or purchaser of such vehicle any sums which such owner or purchaser would otherwise be entitled to receive.

(g) Any person who wilfully violates any of the provisions of this subdivision shall, in addition to any other penalty provided by law, be liable to the people of this state for a penalty in an amount not less than one hundred dollars nor more than one thousand dollars for each violation.

13. (a) Subject to the provisions of paragraph (b), no revocation or suspension order shall be issued pursuant to this section, or if such revocation or suspension order has been issued, it shall be terminated, if the commissioner shall determine that the person involved was not aware of the fact that financial security was not in effect and the failure to have such financial security in effect was caused solely by the negligence or malfeasance of a person other than such person.

(b) The burden of proving lack of knowledge that financial security was not in effect and that such failure resulted solely from the

negligence or malfeasance of another shall be upon the person seeking to avoid revocation or suspension action. Such facts shall be established by clear and convincing evidence, either by the submission of affidavits or at a hearing called in the discretion of the commissioner.

14. No registration and/or license, which has been revoked pursuant to this section because the holder was convicted of driving without insurance in violation of subdivision one of section three hundred nineteen of this chapter, shall be restored until all civil penalties, required to be paid to the department pursuant to the provisions of subdivision five of section three hundred nineteen of this chapter, have been paid.

15. Notwithstanding any provisions of this section, a restricted use license or privilege of operating a motor vehicle in this state may be issued to a person who has had his license or such privilege revoked or suspended pursuant to any provision of this section in accordance with article twenty-one-A of this chapter.

§ 319. Penalties. 1. Any owner of a motor vehicle registered in this state, or an unregistered motor vehicle, who shall operate such motor vehicle or permit it to be operated in this state without having in full force and effect the financial security required by the provisions of this chapter and any other person who shall operate in this state any motor vehicle registered in this state, or an unregistered motor vehicle, with the knowledge that the owner thereof does not have in full force and effect such proof of financial security, except a person who, at the time of operation of such motor vehicle, had in effect an operator's policy of liability insurance, as defined in section three hundred eighteen, with respect to his operation of such vehicle shall be guilty of a traffic infraction and upon conviction may be fined not less than one hundred fifty dollars or more than one thousand five hundred dollars or may be imprisoned for not more than fifteen days or both. In addition to the penalties herein set forth, such person, upon conviction, shall also become liable for payment to the department of the civil penalty provided in subdivision five of this section.

2. When the production of an insurance identification card is required by any provision of this chapter, no person shall produce an insurance identification card which indicates insurance coverage which is not in effect. In any prosecution or proceeding alleging a violation of this subdivision, it shall be an affirmative defense that the person so charged did not have knowledge that the insurance indicated on such card was not in effect. A violation of this subdivision shall be a misdemeanor.

3. Every person who operates a vehicle registered in this state, or a vehicle required to be registered in this state, shall, when required by the commissioner's regulations, produce an insurance identification card when requested by any peace officer, acting pursuant to his special duties, police officer or magistrate. The failure to so produce such a card shall be presumptive evidence that such person was operating the vehicle without having in effect financial security required by the provisions of this chapter.

4. Where the commissioner finds, other than by means of the receipt of a certificate of conviction, that a person has violated any provision of subdivision one of this section, such person shall become liable for payment to the department of the civil penalty provided in subdivision five of this section. However, the enforcement of such civil penalty, and of any revocation order based upon such finding, shall be stayed at the request of the person against whom such civil penalty and revocation order has been issued until after a hearing, provided such person was not both the operator and the owner of the motor vehicle which was being operated without the required financial security being in effect. After such hearing, the stay of enforcement of the civil penalty and revocation order shall be vacated unless it is found by a preponderance of the evidence that such person, (a) if he was the operator and not the owner of the motor vehicle, had no knowledge that the financial security required for such motor vehicle was not in effect; or (b) if he was the owner and not the operator of the motor vehicle, that he did not permit, either expressly or impliedly, the operation of such motor vehicle.

5. The civil penalty for a violation of subdivision one of this section shall be seven hundred fifty dollars.

§ 320. Notice to other jurisdictions. The commissioner shall transmit a certified copy of any record of any conviction under this article or of any action taken pursuant to this article resulting in revocation of a non-resident's privilege to operate a motor vehicle in this state or the privilege of the operation within this state of any motor vehicle owned by him to the motor vehicle commissioner or officer performing similar functions in the state in which such non-resident resides.

§ 321. Exceptions. 1. This article shall not apply to any motor vehicle for the operation of which security is required to be furnished under section three hundred seventy of this chapter, including those for which a certificate is issued pursuant to section three hundred seventy-one of this chapter or under a similar law in another state except as may be provided in section three hundred seventy; to any motor vehicle operated under a permit or a certificate of convenience and necessity issued pursuant to the transportation law, or under a permit or certificate issued by the public utility regulatory agency of another state; nor to any vehicle for which a permit or certificate is in force pursuant to the interstate commerce act nor to any motor vehicle owned by the United States, any state or any political subdivisions of any state.

2. Provided, however, that any motor vehicle exempted in subdivision one of this section from the provisions of any portion of this article shall be subject to the provisions of article fifty-one of the insurance law.

ARTICLE 7

MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

Section 330. Commissioner to administer article; may require proof; court review.

331. Proof required upon certain convictions.
332. Proof required in the event of certain judgments.
333. Payments sufficient to satisfy requirements of this article.
334. Suspension waived upon payment of judgment in installments.
335. Security and proof required following accident.
336. Duty of courts to report judgments.
337. Suspension, duration.
338. Application to non-resident, other persons.
339. Owner may give proof for chauffeur or member of family.
340. Surrender of license and evidences of registration.
341. Amount of proof required.
342. Alternate methods of giving proof.
343. Proof of financial responsibility by certificate showing motor vehicle liability policy obtained.
344. Certificate furnished by non-resident.
345. Motor vehicle liability policy.
346. Proof of financial responsibility not required after February first, nineteen hundred fifty-seven.
348. Article not to affect other policies.
349. Filing a bond as proof of financial responsibility.
350. Money or securities deposited as proof of financial responsibility.
351. Person having given proof may substitute other proof.
352. If proof fails commissioner may require other proof.
353. When commissioner may release proof.
354. Commissioner to furnish operating record.
355. Operating without giving proof when proof required.
356. Forging or without authority signing proof of financial responsibility.
357. Failing to report convictions and judgments.
358. Otherwise violating article.
359. Definitions.
360. Exceptions.
361. Self-insurers.
362. Article not to repeal other motor vehicle laws.
363. Expenses of administering article.

364. Uniformity of interpretation.
365. Short title.
366. Past application of article.
367. This article does not prevent other process.
368. Constitutionality.

§ 330. Commissioner to administer article; may require proof; court review. (a) The commissioner shall administer and enforce the provisions of this article.

(b) The commissioner is hereby authorized to adopt and enforce such regulations as may be necessary for the administration of this article.

(c) Upon any reasonable ground, appearing on the records of the bureau, the commissioner may suspend or revoke the operator's or chauffeur's license of any person and may suspend or revoke any and all of the registration certificates or registration plates for any motor vehicle and may refuse to issue to any such person any new or renewal license or to register in the name of such person any motor vehicle unless and until such person gives proof of his financial responsibility in the future as hereinafter provided in this article.

Any person furnishing proof of financial responsibility pursuant to this subdivision may be relieved from continuing to furnish such proof in the discretion of the commissioner provided three years have elapsed since such proof was first furnished during which period such person has not been convicted of, or forfeited bail given on being charged with, any of the offenses specified in subdivision two of section five hundred ten of this chapter and no charges of any of such offenses are pending against such person. The affidavit of such person shall be accepted as proof of the facts therein stated, in the absence of evidence to the contrary before the commissioner.

(d) Any person aggrieved by an order or act of the commissioner under this section or under provisions of this article, may maintain a proceeding under article seventy-eight of the civil practice law and rules to review, but the commencement of such a proceeding shall not suspend the order or act unless a stay thereof shall be allowed by said court pending final determination of the review.

(e) The provisions of subdivision seven of section five hundred ten of this chapter shall apply to a suspension under this article.

§ 331. Proof required upon certain convictions. (a) Whenever the commissioner, or other authorized person, under any law of this state suspends or revokes the operator's or chauffeur's license of any person because of the conviction of such person, the commissioner shall also suspend any and all of the registration certificates and registration plates issued for any motor vehicle registered in the name of the person so convicted as owner except that he shall not suspend such evidence of registration, unless otherwise required by law, in the event such owner has previously given, or shall immediately give and thereafter maintain proof of his financial responsibility in the future in the manner hereinafter specified in this article with respect to each and every motor vehicle owned and registered by such person.

(b) Such suspensions or revocation shall remain in effect and the commissioner shall not issue to any such person any new or renewal license or register in the name of such person any motor vehicle, until permitted under this chapter and not then unless and until such person gives proof of his financial responsibility in the future as hereinafter provided in this article. Reversal on appeal of any conviction because of which any license or registration has been suspended pursuant to this article shall entitle the holder to the restoration thereof forthwith without proof of financial responsibility.

(c) For the purpose of this article the term conviction shall include a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, upon a charge which upon conviction of the defendant requires or authorizes the commissioner to suspend or revoke the license of such person.

§ 332. Proof required in the event of certain judgments. (a) The commissioner shall also suspend the operator's or chauffeur's license and any and all of the registration certificates and registration plates issued to any person upon receiving authenticated report as hereinafter provided that such person has failed for a period of fifteen days to

satisfy any judgment in amounts and upon a cause of action as hereinafter stated.

(b) The judgment herein referred to shall mean any judgment in excess of one thousand dollars for damages because of injury to or destruction of property, including loss of use thereof, or any judgment for damages, including damages for care and loss of services, because of bodily injury to or death of any person arising out of the ownership, maintenance, use or operation of any motor vehicle.

(c) The commissioner shall take action as required in this section upon receiving proper evidence that any person in another state, the District of Columbia, any district court of the United States, or any province of Canada, has failed for a period of fifteen days to satisfy any judgment in amount as stated in section three hundred thirty-three and upon a cause of action as stated in this section.

(d) Any person whose license, registration or non-resident's driving privilege is subject to suspension hereunder, may be relieved from the effect of failure to satisfy such judgment, if such person files with the commissioner proper evidence that a bond or insurance policy as provided for in this article was in force and effect at the time of the accident resulting in the judgment, and was available for the satisfaction of the judgment to the extent provided for in section three hundred thirty-three and that such judgment was so satisfied.

§ 333. Payments sufficient to satisfy requirements of this article. Every judgment herein referred to shall for the purpose of this article only be deemed satisfied: (a) When twenty-five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or when fifty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of death of one person as the result of any one accident; or

(b) When subject to such limit of twenty-five thousand dollars because of bodily injury to or fifty thousand dollars because of death of one person, the sum of fifty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or when one hundred thousand dollars has been credited

upon any judgment or judgments rendered in excess of that amount because of death of two or more persons as the result of any one accident; or

(c) When ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

§ 334. Suspension waived upon payment of judgment in installments. (a) The commissioner shall not suspend a license or registration of a motor vehicle, and shall restore any license or registration suspended following non-payment of a judgment, when the judgment debtor gives proof of his financial responsibility in the future as hereinafter provided, and when the judgment debtor obtains an order from the court in which such judgment was rendered, permitting the payment of such judgment in installments, and while the payment of any said installment is not in default.

(b) A judgment debtor upon five days' notice to the judgment creditor may apply to the court in which such judgment was obtained for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order, fixing the amounts and times of payment of the installments.

(c) In the event the judgment debtor fails to pay any installment as permitted by the order of the court, then upon notice of such default the commissioner shall forthwith suspend the license and registration certificates and registration plates of the judgment debtor until such judgment is satisfied as provided in this article.

(d) Provided, however, if the judgment creditor consents in writing, in such form as the commissioner may prescribe, that the judgment debtor be allowed license and registration the same may be allowed by the commissioner, in his discretion, notwithstanding default in the payment of such judgment or of any installments thereof, for six months from the date of such consent and thereafter until such consent is revoked in

writing, if the judgment debtor furnishes proof of his financial responsibility in the future as hereinafter provided.

§ 335. Security and proof required following accident. (a) Not less than ten days nor more than sixty days after receipt by him of the report or notice of an accident which has resulted in bodily injury or death, or in damage to the property of any one person in excess of one thousand dollars, the commissioner shall forthwith suspend the license of any person operating, and the registration certificates and registration plates of any person owning, a motor vehicle in any manner involved in such accident unless and until such operator (or chauffeur) or owner or both shall have previously furnished or immediately furnishes security sufficient in the judgment of the commissioner to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such owner or operator (or chauffeur) by or on behalf of any aggrieved person or his legal representative, and unless and until such owner or operator (or chauffeur) or both shall immediately furnish and thereafter maintain proof of financial responsibility in the future. Where erroneous information with respect to insurance coverage of the owner or operator (or chauffeur) of any such vehicle is furnished to the commissioner, he shall take appropriate action as above provided within sixty days after the receipt by him of correct information with respect to such coverage. This section shall not apply: (1) to such owner or operator (or chauffeur) if such owner had in effect at the time of such accident with respect to such motor vehicle a standard provisions automobile liability policy in form approved by the superintendent of financial services and issued by an insurance company authorized to do business in this state or, if such motor vehicle was not registered in this state or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy, or the most recent renewal thereof, an automobile liability policy acceptable to the superintendent of financial services as substantially the equivalent of such standard provisions automobile liability policy; (2) to such operator (or chauffeur), if not the owner of such motor vehicle, if there was in effect at the time of such accident such a policy with respect to his

operation of motor vehicles not owned by him or, if such motor vehicle was a private passenger motor vehicle, with respect to his operation of private passenger motor vehicles not owned by him or (3) to such owner or operator (or chauffeur) if the liability of such owner or operator (or chauffeur) for damages resulting from such accident is, in the judgment of the commissioner, covered by any other form of liability insurance policy issued by an insurance company authorized to do business in this state or by a bond, provided every such policy or bond mentioned herein is subject, if the accident has resulted in bodily injury, to a limit, exclusive of interest and costs, of twenty-five thousand dollars or death to a limit, exclusive of interest and costs, of fifty thousand dollars, because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of fifty thousand dollars because of bodily injury to or one hundred thousand dollars because of death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of ten thousand dollars because of injury to or destruction of property of others in any one accident or (4) to such owner or operator if the commissioner shall determine that the failure to have liability coverage as described above was caused solely by the negligence or malfeasance of a person other than the person whose license or registration has been suspended or is subject to suspension, and that the person seeking to avoid such suspension was not aware of the lack of such liability coverage. However, with respect to the provisions of (4) above, the burden of proof shall be upon the person seeking to avoid such suspension action. Provided further, that such facts shall be established by clear and convincing evidence, either by the submission of affidavits or at a hearing called in the discretion of the commissioner.

Upon receipt of notice of such accident, the insurance carrier or surety company which issued such policy or bond shall furnish for filing with the commissioner a written notice that such policy or bond was in effect at the time of such accident or shall notify the commissioner in such manner as he may require in case such policy or bond was not in effect at the time of such accident.

In case any such operator (or chauffeur) or owner has no license to operate issued under this chapter or no motor vehicle registered in his name in this state, he shall not be allowed a license or registration until he has complied with this article to the same extent as would be necessary if he had held an operator's or chauffeur's license and a motor vehicle registration issued under this chapter at the time of the accident.

(b) Such security, where ordered, shall be in such form and in such amount as the commissioner may require, but in no case in excess of the amount of proof required by section three hundred forty-one of this article. The commissioner may reduce the amount of security ordered in any case within six months after the date of the accident, if, in his judgment, the amount ordered is too large. In case the security originally ordered has been deposited, the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of subdivision (c) of this section.

(c) Security furnished in compliance with the requirements of this section shall be placed by the commissioner in the custody of the commissioner of taxation and finance and shall be applicable only to the payment of a judgment against the depositor for damages arising out of the accident in question in an action at law begun not later than one year after the date of such accident or, upon assignment of the depositor, made not later than one year after the date of such accident, to the settlement of a claim arising out of such accident, or upon assignment of the depositor, made after the expiration of one year after the date of such accident, to the settlement of an action at law begun not later than one year after the date of such accident. All of such payments made out of the deposited security shall be made as follows: Payment shall first be made to each of the judgment creditors and to each of the claimants who have agreed to settle their claims, whose damages were evaluated by the commissioner, in an amount not greater than the amount fixed in their respective evaluations. Whenever the commissioner shall be given evidence, satisfactory to him, that the amounts of all claims for damages against the depositor arising out of such accident are fixed, either by judgment or settlement agreement, payment shall be made out of any balance remaining after the first

distribution to each of those persons whose judgments or settlement amounts have not been fully paid but whose damages were evaluated by the commissioner, in proportion to the amounts of their respective evaluations unless there is sufficient to make payment in full; and any balance remaining after the first and second distributions are completed shall be paid to those judgment creditors and those claimants who have agreed to settle their claims but whose damages were not evaluated, in proportion to the amounts of their respective judgments or settlement amounts unless there is sufficient to make payment in full. Such deposit, or any balance thereof, shall be returned to the depositor or his personal representative whenever after the expiration of such year, the commissioner shall be given evidence, satisfactory to him, that there is no such action pending and no such judgment unsatisfied or whenever, before the expiration of such year, the commissioner shall be given evidence, satisfactory to him, that there is no such judgment unsatisfied and that there is no existing cause of action against the depositor for damages arising out of such accident.

(c-1) After security, furnished in compliance with the requirements of this section, has remained on deposit for five years, the commissioner shall make a determination as to whether the deposit, or any balance thereof, is returnable to the depositor or the person entitled thereto. In the event that such deposit, or any balance thereof, is determined to be returnable, but remains unclaimed by the depositor or the person entitled thereto for a period of one year following the date of such determination, such unclaimed deposit, or any balance thereof, shall be deemed abandoned property subject to the provisions of the abandoned property law.

(d) The provisions of subdivision (a) of this section shall not apply to the owner of a motor vehicle operated by one having obtained possession or control thereof without the expressed or implied consent of such owner, to a police officer or member of the state police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person; or to either the owner or operator of a motor

vehicle involved in an accident wherein no damage or injury was caused to other than the person or property of such owner or operator.

(e) In lieu of deposit of security when required pursuant to the provisions of this section the commissioner may accept a written agreement, executed and acknowledged by the person required to deposit security and any person who has sustained bodily injury, including death, or damage to his property, or his legal representative, providing for the payment of an agreed amount in installments, with respect to the claims of such person for injuries or damages resulting from the accident. In the event of default in payment of any installment under such agreement, then upon notice of such default the commissioner shall forthwith suspend the license and registration certificates and registration plates of the person in default until release has been filed with the commissioner indicating that the entire agreed amount has been paid. But in no case shall such agreement be used in lieu of proof of maintenance of financial responsibility in the future required pursuant to the provisions of this section.

§ 336. Duty of courts to report judgments. The clerk of the court, or the court where it has no clerk, shall, upon written request of the judgment creditor or his attorney, forward to the commissioner a certified copy of transcript of any judgment for damages, the rendering and non-payment of which judgment requires the commissioner to suspend the operator's or chauffeur's license and/or the registrations in the name of the judgment debtor hereunder, such copy or transcript to be forwarded to the commissioner immediately upon the expiration of fifteen days after such judgment has become final by expiration without appeal of the time within which appeal might have been perfected or by final affirmance on appeal, and has not been otherwise stayed, or satisfied.

§ 337. Suspension, duration. (a) The suspension required in sections three hundred thirty-two, three hundred thirty-four and three hundred thirty-five (e) shall remain in effect, the motor vehicle in any manner involved in such accident shall not be registered in the name of the person whose license and/or registration certificate was so suspended,

or in any other name where the commissioner has reasonable grounds to believe that such registration will have the effect of defeating the purposes of this article, and no other motor vehicle shall be registered in the name of such person nor any new licenses issued to such person unless and until such judgment is satisfied or stayed or is discharged in bankruptcy and the judgment debtor gives proof of financial responsibility in the future as required pursuant to section three hundred thirty-five except under the conditions as stated in sections three hundred thirty-three and three hundred thirty-four.

(b) The suspension required in section three hundred thirty-five shall remain in effect, the motor vehicle in any manner involved in such accident shall not be registered in the name of the person whose license and/or registration certificate was so suspended, or in any other name where the commissioner has reasonable grounds to believe that such registration will have the effect of defeating the purposes of this article, and no other motor vehicle shall be registered in the name of such person nor any new licenses issued to such person, unless and until such person complies with the requirement with respect to furnishing security, or unless and until such person has obtained a release, or a favorable judgment in an action at law to recover damages resulting from such accident or unless such person shall have satisfied in the manner herein provided any judgment rendered against such person in such an action, or unless such judgment rendered against such person is discharged in bankruptcy, and at all events until such person gives and thereafter maintains proof of his financial responsibility.

Provided, however, that any person whose license or registration became subject to suspension or has been suspended pursuant to subdivision (a) of section three hundred thirty-five, whether or not such person has furnished security and proof of financial responsibility, shall be relieved from furnishing or maintaining proof of financial responsibility if (1) one year has elapsed since the date of the accident, (2) nine months have elapsed since the date of compliance with any suspension order made against such person because of such accident, (3) such person has neither paid nor agreed in writing to pay anything for damages resulting from such accident, (4) no suit for damages because thereof has been brought against such person and (5)

such person is not required to furnish or maintain proof of financial responsibility for some reason other than for having been involved in such accident. If a suit or suits for damages resulting from such accident shall have been brought and such suit or suits shall have resulted in a judgment or judgments, the successful person in such suit or suits shall be relieved from furnishing or maintaining proof of financial responsibility forthwith provided such person is not required to furnish or maintain such proof for reasons other than for having been involved in such accident and, in case such person has furnished security because of having been involved in such accident, it shall be returned to such person or the personal representative of such person forthwith notwithstanding the provisions of subdivision (c) of section three hundred thirty-five. The fact of having been involved in such accident shall not bar the issuance of license and registration to a person who has been relieved from furnishing or maintaining proof of financial responsibility pursuant to the provisions of this paragraph.

(c) A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this article unless otherwise provided in subdivisions (a) and (b) of this section.

§ 338. Application to non-resident, other persons. (a) Whenever, by the laws of this state, the commissioner has the power to suspend or revoke a license if the operator or chauffeur were a resident, the commissioner shall have similar power to suspend or revoke the license or to forbid the operation of a motor vehicle in this state owned by such operator or chauffeur if the operator or chauffeur is a non-resident. And whenever by the laws of this state the commissioner has the power to suspend or revoke the registration certificates and registration plates if the owner were a resident, the commissioner shall have similar power to forbid the operation within this state of any motor vehicle if the owner is a non-resident.

(b) All of the provisions of this article shall apply to any person who is not a resident of this state under the same circumstances as they would apply to a resident; and, in such event, such a non-resident shall not operate any motor vehicle in this state nor shall any motor vehicle

owned by him be operated in this state, unless and until such non-resident or the owner of the motor vehicle, if another person, has complied with the requirements of this article with respect to furnishing security and giving proof of financial responsibility in the future.

(c) Upon conviction of a non-resident or in case of any unsatisfied judgment rendered against a non-resident which conviction or unsatisfied judgment results in suspension of such non-resident's driving privileges in this state and/or the prohibition of the operation within this state of any motor vehicle owned by such non-resident, the commissioner shall transmit a certified copy of any record of any such conviction or any such unsatisfied judgment or any other action pursuant to this article resulting in suspension of a non-resident's driving privileges in this state and/or the prohibition of the operation within this state of any motor vehicle owned by such non-resident to the motor vehicle commissioner or officer performing the functions of a commissioner in the state in which such non-resident resides.

In case a non-resident's failure to comply with the provisions of section three hundred thirty-five results in suspension of such non-resident's rights and privileges in this state and/or prohibition of the operation within the state of any motor vehicle owned by such non-resident, the commissioner shall transmit a certified copy of the record of such action to the motor vehicle commissioner or officer performing the functions of the commissioner in the state in which such non-resident resides, if the law of such other state provides for action in relation thereto similar to that provided for in subdivision (d) of this section.

(d) The commissioner shall take action as required anywhere in this article, upon receiving proper evidence that any resident of this state, has in any other state had his driving privileges suspended and/or the operation of any motor vehicle owned by him prohibited pursuant to a law of such other state providing for such suspension or prohibition because of a conviction or because of an unsatisfied judgment which would require the commissioner to suspend a non-resident's driving privileges had such a conviction or judgment been rendered in this state against a non-resident, provided, however, that no suspension or prohibition shall

be effective until twenty days have elapsed from the date upon which notice of suspension shall have been mailed to the operator or owner during which period such operator or owner shall be permitted to submit evidence of satisfaction of the judgment or other evidence relating thereto.

Upon receipt of a certification that the operating privilege of a resident of this state has been suspended, revoked or cancelled in any such other state pursuant to a law providing for its suspension, revocation or cancellation for failure to deposit security for the payment of a judgment as may arise out of a motor vehicle accident under circumstances which would require the commissioner to suspend a non-resident's operating privilege had the accident occurred in this state, the commissioner shall suspend the license of such resident if he was the operator, and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security.

(e) The word "state" when used in this section shall, unless the context clearly indicates otherwise, mean any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada.

§ 339. Owner may give proof for chauffeur or member of family. Whenever the commissioner determines that any person required to give proof or furnish security under this article, or under certain provisions of article three previously numbered article six-a of this chapter, as added by chapter six hundred ninety-five of the laws of nineteen hundred twenty-nine and repealed by chapter eight hundred seventy-two of the laws of nineteen hundred forty-one, is or later becomes a chauffeur or motor vehicle operator, however designated, in the employ of an owner of a motor vehicle, or is or later becomes a member of the immediate family or household of the owner of a motor vehicle, the commissioner shall accept proof of financial responsibility given by such owner in lieu of proof by such person to permit such person to operate a motor vehicle for which the owner has given proof as

herein provided. In case such person is one who is furnished proof of financial responsibility by his employer, he shall not be required to furnish security. The commissioner shall designate the restrictions imposed by this section on the face of such person's operator's or chauffeur's license.

If the owner of a motor vehicle is one who is required to furnish coverage for the vehicle under section three hundred seventy of this chapter, or one whose vehicles are operated under a permit or a certificate of convenience and necessity issued pursuant to the public service law or is a self-insurer, proof by the owner on behalf of another as provided by this section may be made if there is filed with the commissioner satisfactory evidence that such owner has complied with the law with respect to his liability for damage caused by the operation of his vehicles by providing the required insurance or other coverage or that he is a self-insurer.

§ 340. Surrender of license and evidences of registration. (a) Any person whose operator's or chauffeur's license or registration certificates or registration plates have been suspended as provided in this article and have not been reinstated shall immediately return every such license, registration certificate and registration plates held by such person to the commissioner. Any person wilfully failing to comply with this requirement is guilty of a misdemeanor.

(b) The commissioner is hereby authorized to take possession of any license, registration certificate or registration plates upon the suspension thereof under the provisions of this article or to direct any peace officer, acting pursuant to his special duties or police officer to take possession thereof and to return the same to the office of the commissioner.

§ 341. Amount of proof required. Proof of financial responsibility shall mean proof of ability to respond in damages for liability thereafter incurred, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars because

of bodily injury to or fifty thousand dollars because of death of any one person, and subject to said limit respecting one person, in the amount of fifty thousand dollars because of bodily injury to or one hundred thousand dollars because of death of two or more persons in any one accident, and in the amount of ten thousand dollars because of injury to or destruction of property in any one accident. Such proof in such amounts shall be furnished for each motor vehicle registered by such person.

§ 342. Alternate methods of giving proof. Proof of financial responsibility when required under this article may be given by the following alternate method; either by proof that a policy or policies of motor vehicle liability insurance have been obtained and are in full force and effect, or that a bond has been duly executed, or that deposit has been made of money or securities, all as hereinafter provided.

§ 343. Proof of financial responsibility by certificate showing motor vehicle liability policy obtained. (a) Proof of financial responsibility may be made by filing with the commissioner the written certificate of any insurance carrier duly authorized to do business in this state, certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same date as the effective date of the certificate and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.

(b) No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such motor vehicle is so designated in such a certificate.

(c) When a person has been required to furnish proof of a financial responsibility and there has been in effect a motor vehicle liability policy for his benefit for a period of three years, during which period such person or any vehicle registered in his name has not been involved

in any accident upon which a report is required pursuant to section six hundred five hereof, such person may file in lieu thereof, the written certificate of any insurance carrier duly authorized to do business in this state, certifying that there is in effect a standard provisions automobile liability policy in form approved by the superintendant of financial services with a limit of liability no less than provided in subdivision (a) of section three hundred thirty-five of this law.

§ 344. Certificate furnished by non-resident. (a) The non-resident owner of a foreign vehicle may give proof of financial responsibility by filing with the commissioner a written certificate or certificates of an insurance carrier authorized to transact business in the state, District of Columbia, or territory or lands in continental United States under the exclusive jurisdiction of the United States, or a province of Canada in which the motor vehicle or motor vehicles described in such certificate is registered, or if such non-resident does not own a motor vehicle, then in the state, District of Columbia, or territory or lands in continental United States under the exclusive jurisdiction of the United States, or province of Canada in which the insured resides and otherwise conforming to the provisions of this article, and the commissioner shall accept the same upon condition that said insurance carrier complies with the following provisions of this section.

(1) Said insurance carrier shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state.

(2) Said insurance carrier shall duly adopt a resolution which shall be binding upon it, declaring that its policies shall be deemed to be varied to comply with the law of this state relating to the terms of motor vehicle liability policies issued herein.

(3) Said insurance carrier shall also agree to accept as final and binding any judgment of any court of competent jurisdiction in this state duly rendered in any action arising out of a motor vehicle accident.

(4) Said insurance carrier shall also agree to pay any assessment for expenses of administration of this article levied against it as provided

in section three hundred sixty-three of this chapter.

(b) If any foreign insurance carrier which has qualified to furnish proof of financial responsibility as hereinbefore required defaults in any said undertakings or agreements, the commissioner shall not thereafter accept any certificate of said carrier, whether theretofore filed or thereafter tendered as proof of financial responsibility so long as such default continues.

§ 345. Motor vehicle liability policy. (a) A "motor vehicle liability policy" as said term is used in this article shall mean an owner's or an operator's policy of liability insurance certified as provided in section three hundred forty-three or section three hundred forty-four as proof of financial responsibility, and issued except as otherwise provided in section three hundred forty-four, by an insurance carrier duly authorized to transact business in this state to or for the benefit of the person named therein as insured.

(b) Such owner's policy of liability insurance

(1) Shall designate by explicit description or by appropriate reference, all motor vehicles with respect to which coverage is thereby intended to be granted.

(2) Shall insure as insured the person named therein and any other person using or responsible for the use of any such motor vehicle or motor vehicles with the consent, express or implied, of such named insured.

(3) Shall insure the insured or such other person against loss from the liability imposed by law for damages, including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of such motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or the Dominion of Canada, subject to a limit, exclusive of interest and cost, with respect to each such motor vehicle, except a tow truck, of twenty-five thousand dollars because of bodily injury to or fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, to a limit of fifty thousand dollars because of bodily injury to or one hundred thousand

dollars because of death of two or more persons in any one accident, and to a limit of ten thousand dollars because of injury to or destruction of property of others in any one accident. The limit, exclusive of interest and costs, with respect to a tow truck shall be a combined single limit of three hundred thousand dollars because of bodily injury of death to one or more persons or because of injury or destruction of property of others in any one accident, and to a limit of twenty-five thousand dollars because of damage to a vehicle in the care, custody and control of the insured.

(c) Such operator's policy of liability insurance shall insure the person named therein as insured against loss from the liability imposed upon him by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Such motor vehicle liability policy shall provide for the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement that the insurance thereunder is provided in accordance with the coverage defined in this article as respects bodily injury and death or property damage or both and is subject to all the provisions of this article.

(e) Such motor vehicle liability policy shall not insure any liability on account of bodily injury to or death of an employee of the insured for which benefits are payable under any workmen's compensation law. Nor is any such policy required to insure any liability on account of (1) damage to property of others in charge of the insured or of his agents or employees (2) bodily injury to or death of the insured, or (3) except as provided in paragraphs one and two of subsection (g) of section three thousand four hundred twenty of the insurance law, bodily injury to or death of the spouse of the insured, or for injury to property of the spouse of the insured; and any insurance of any such liability afforded by such a policy shall be subject to the provisions of subsection (f) of this section.

(f) Such motor vehicle liability policy may, however, grant any lawful

coverage in excess of or in addition to the coverage herein specified and such excess or additional coverage shall not be subject to the provisions of this article.

(g) Several policies of one or more insurance carriers which together meet the requirements of this section shall be termed "motor vehicle liability policy" within the meaning of this article.

(h) No motor vehicle liability policy shall be issued or delivered in this state until a copy of the form of policy shall have been on file with the superintendent of financial services for at least thirty days, unless sooner approved in writing by the superintendent of financial services, nor if within said period of thirty days the superintendent of financial services shall have notified the carrier in writing that in his opinion, specifying the reasons therefor, the form of policy does not comply with the laws of this state. The superintendent of financial services shall approve any form of policy which discloses the name and address of the insured, the coverage afforded by such policy, the premium charged therefor, the policy period, the limit of liability and the agreement that the insurance thereunder is provided in accordance with the coverage defined in this section and is subject to all the provisions of this article.

(i) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(1) The liability of any company under a motor vehicle liability policy shall become absolute whenever loss or damage covered by said policy occurs, and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or duty of the carrier to make payment on account of such loss or damage. No such policy shall be cancelled or annulled as respects any loss or damage by any agreement between the carrier and the insured after the said insured has become responsible for such loss or damage, and any such cancellation or annullment shall be void. If the death of the insured shall occur after the insured has become liable during the policy period for loss or damage covered by the policy, the policy shall not be deemed terminated by such death with respect to such liability and the company shall be liable thereunder in the same manner and to the same extent as though death had not occurred. Upon the recovery of a final judgment against any person for any such loss or damage, if the

judgment debtor or the decedent whom he represents was at the accrual of the cause of action insured against liability therefor under a motor vehicle liability policy, the judgment creditor shall be entitled to have the insurance money applied to the satisfaction of the judgment. But the policy may provide that the insured, or any other person covered by the policy, shall reimburse the company for payments made on account of any accident, claim or suit involving a breach of the terms, provisions or conditions of the policy; and further, if the policy shall provide for limits in excess of the limits designated in this section, the insurance carrier may plead against such judgment creditor, with respect to the amount of such excess limits of liability, any defenses which it may be entitled to plead against the insured. Any such policy may further provide for the prorating of the insurance thereunder with other applicable valid and collectible insurance. If the death, insolvency or bankruptcy of the insured shall occur within the policy period, the policy during the unexpired portion of such period shall cover the legal representatives of the insured. No statement made by the insured or on his behalf, and no violation of the terms of the policy, shall operate to defeat or avoid the policy so as to bar recovery within the limits provided in subdivision (b) of this section.

(2) The policy, the written application therefor (if any) and any rider or endorsement, which shall not conflict with the provisions of this article, shall constitute the entire contract between the parties.

(3) Any insurance carrier authorized to issue motor vehicle liability policies as provided for in this article may, pending the issue of such a policy, execute an agreement, to be known as a binder; or may, in lieu of such a policy issue an indorsement to an existing policy; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this section shall apply to such binders and endorsements.

§ 346. Proof of financial responsibility not required after February first, nineteen hundred fifty-seven. Notwithstanding any other provision of law, no person, on and after February first, nineteen hundred fifty-seven, shall be required to file or maintain proof of financial responsibility pursuant to this article.

§ 348. Article not to affect other policies. (a) This article shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if endorsed to conform to the requirements of this article shall be accepted as proof of financial responsibility when required under this article.

(b) This article shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance, or use by persons in the insured's employ or in his behalf of motor vehicles not owned by the insured.

§ 349. Filing a bond as proof of financial responsibility. (a) A person required to give proof of financial responsibility may file with the commissioner a bond meeting the requirements of this section.

(b) Such bond shall be executed by the person giving such proof and by a surety company duly authorized to transact business in this state.

(c) The commissioner shall not accept any such bond unless it is conditioned for payments in amounts and under the same circumstances as would be required in a motor vehicle liability policy furnished by the person giving such proof under this article.

(d) No such bond shall be cancelled unless ten days' prior written notice of cancellation is given the commissioner but cancellation of such bond shall not prevent recovery thereon with respect to any right or cause of action arising prior to the date of cancellation.

(e) If a final judgment rendered against the principal on the bond filed with the commissioner as provided in this article shall not be satisfied within fifteen days after its rendition, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action on said bond in the name of the state against the company or persons executing such bond.

§ 350. Money or securities deposited as proof of financial responsibility. (a) A person may give proof of financial responsibility

by delivering to the commissioner one hundred fifty thousand dollars in cash, or securities, such as may legally be purchased by savings banks or for trust funds, of a market value of one hundred fifty thousand dollars.

(b) All money or securities so delivered to the commissioner shall be placed by the commissioner in the custody of the commissioner of taxation and finance and shall be subject to execution to satisfy any judgment mentioned in this article within the limits of coverage and subject to the limits on amounts required by this article for motor vehicle liability policies, and if such moneys or securities shall be otherwise subjected to attachment or any execution, the depositor shall immediately furnish such additional moneys or securities, not otherwise subjected to attachment or execution, to meet the requirements of this section.

(c) The commissioner shall not accept such money or securities unless accompanied by evidence that there are no unsatisfied judgments against such person registered in the office of the county clerk of the county where such person resides.

§ 351. Person having given proof may substitute other proof. The commissioner shall cancel any bond or return any certificate of insurance, or the commissioner shall direct and the department of taxation and finance shall return any money or securities, to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this article.

§ 352. If proof fails commissioner may require other proof. Whenever any proof of financial responsibility filed by any person under the provisions of this article no longer fulfills the purpose for which required, the commissioner shall, for the purpose of this article, require other proof of financial responsibility as required by this article, and shall suspend the operator's or chauffeur's license, and registration certificates and registration plates of such person pending such proof.

§ 353. When commissioner may release proof. The commissioner shall upon request consent to the cancellation of any bond or insurance policy or return to the person entitled thereto any money or securities, deposited pursuant to this article as proof of financial responsibility, or waive the requirement of filing proof of financial responsibility in any of the following events:

(1) In the event of the death of the person on whose behalf such proof was filed, or the permanent incapacity of such person to operate a motor vehicle; or

(2) In the event the person who has given proof of financial responsibility surrenders his operator's or chauffeur's license, registration certificates and registration plates to the commissioner, but the commissioner shall not release such proof in the event any action for damages upon a liability referred to in this article is then pending, or any judgment upon any such liability then outstanding and unsatisfied, or in the event the commissioner has received notice that such person has within the period of three months immediately preceding been involved as a driver in any motor vehicle accident. An affidavit of the applicant of the non-existence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the bureau.

Whenever any person to whom proof has been surrendered, as provided in this section, applies for an operator's or chauffeur's license or the registration of a motor vehicle, any such application shall be refused unless the applicant shall reestablish such proof.

§ 354. Commissioner to furnish operating record. The commissioner shall upon request furnish any insurance carrier or any person an abstract of the operating record of any person subject to the provisions of this article, which abstract shall include enumeration of any convictions of such person of a violation of any provision of any statute relating to the operation of a motor vehicle or any accidents in which a motor vehicle driven by such person has been involved during the current calendar year and the three calendar years preceding that in

which the request for the operating record is received and if specifically requested shall also fully designate the motor vehicles, if any, registered in the name of such person and the name of the insurer insuring such motor vehicle, for the registration year in which the request for the operating record is received. A request for an abstract of an operating record shall be subject to the provisions of section two hundred two of this chapter.

§ 355. Operating without giving proof when proof required. Any person whose operator's or chauffeur's license or registration certificate or other privilege to operate a motor vehicle has been suspended or revoked, restoration thereof or the issuance of a new license or registration being contingent upon the furnishing of proof of financial responsibility, and who during such suspension or revocation or in the absence of full authorization from the commissioner shall drive any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway except as permitted hereunder, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalties provided by section five hundred eleven of this chapter.

§ 356. Forging or without authority signing proof of financial responsibility. Any person who shall forge, or without authority, sign any evidence of ability to respond in damages as required by the commissioner in the administration of this article, and any non-resident who shall operate a motor vehicle in this state from whom the privilege of operating any motor vehicle has been withdrawn as provided herein, shall be fined not more than one thousand dollars or imprisoned not more than thirty days or both.

§ 357. Failing to report convictions and judgments. Any person required to forward to the commissioner a record of a conviction or a judgment for damages as provided in section three hundred thirty-six, who wilfully fails or neglects to do so, shall be punished by a fine of

not less than ten dollars for each separate offense.

§ 358. Otherwise violating article. Any person who violates any provision of this article for which another penalty is not prescribed by law shall be punished by imprisonment for not more than ninety days or by a fine of not less than one hundred dollars or more than one thousand dollars or both.

§ 359. Definitions. The following words and phrases when used in this article shall, for the purpose of this article, have the following meanings: (a) The singular shall include the plural; the masculine shall include the feminine and neuter, as requisite.

(b) Commissioner. The commissioner of motor vehicles of this state.

(c) Department. The department of motor vehicles of this state acting directly or through its duly authorized officers and agents.

(d) Person. Shall include individuals, firms, partnerships, associations, corporations, receivers, referees, trustees, assignees for the benefit of creditors; executors and administrators; and shall include the owner of any motor vehicle as requisite; but shall not include the state or any political subdivision thereof.

(g) Owner. A person who holds the legal title of a motor vehicle; or in the event a motor vehicle is subject to a security interest, or lease with the right of purchase upon performance of conditions stated in the lease and with an immediate right of possession vested in the debtor or lessee, then such debtor or lessee shall be deemed the owner for the purpose of this act.

(h) Insured. The person in whose name there is issued a motor vehicle liability policy, as defined in this article, and any other person insured under the terms of such policy.

(i) Judgment. Any judgment, except a judgment rendered against this state or any political subdivision thereof or any municipality therein, which shall have become final by expiration without appeal of the time within which appeal might have been perfected, or by final affirmance on appeal, rendered by a court of competent jurisdiction of any state, any province of Canada, the Dominion of Canada, the District of Columbia, or

the United States.

(j) Non-resident. Every person who is not a resident of this state.

(k) Motor vehicle. As used in this article, the term "motor vehicle" shall be defined as in section one hundred twenty-five of this chapter, except that it shall also include trailers, semi-trailers and tractors other than tractors used exclusively for agricultural purposes, and shall exclude fire and police vehicles, self-propelled combines, self-propelled corn and hay harvesting machines, tractors used exclusively for agricultural purposes and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

§ 360. Exceptions. This article, except sections three hundred thirty-nine and three hundred fifty-nine, shall not apply to any motor vehicle for the operation of which security is required to be furnished under section three hundred seventy of this chapter, including those for which a certificate is issued pursuant to section three hundred seventy-one of this chapter except as may be provided in section three hundred seventy; to any motor vehicle operated under permit or a certificate of convenience and necessity issued pursuant to the public service law or pursuant to section fifty-a of such law; nor to any motor vehicle owned by the United States, the state or any political subdivision thereof.

§ 361. Self-insurers. (a) This article, except sections three hundred thirty-nine and three hundred fifty-nine, shall not apply to any person having registered in his name in this state more than twenty-five motor vehicles if such person shall obtain from the commissioner a certificate of self-insurance as provided for in subdivision (b) of this section.

(b) The commissioner may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments, as hereinbefore described, obtained against such person, arising out of the ownership, maintenance, use or operation of any of such person's motor vehicles.

(c) Upon due notice and hearing, the commissioner, may, in his discretion and upon reasonable grounds, cancel a certificate of self-insurance.

§ 362. Article not to repeal other motor vehicle laws. This article shall in no respect be considered as a repeal of any of the provisions of this chapter (except article six) or of other laws relating to the registration, numbering and regulation of motor vehicles; the licensing and regulation of chauffeurs and operators; the use of the public highways by motor vehicles and the accessories used upon them and their incidents; the speed of motor vehicles upon the public highways; or the punishment for the violations of such provisions, but shall be construed as supplemental thereto.

§ 363. Expenses of administering article. 1. The total amount of expenses incurred in connection with the administration of this article shall be paid by all insurance carriers which issue policies or contracts of automobile bodily injury insurance risks subject to this article resident or located in this state in accordance with the provisions of this section.

2. Estimate of expenses. (a) The commissioner annually, as soon as practicable, shall estimate the total amount of expenses which shall be incurred during the succeeding fiscal year in connection with the administration of this article. Such expenses, in addition to the direct costs of personal service, shall include the costs of maintence and operation, the cost of retirement contributions made and workers' compensation premiums paid by the state for or on account of personnel, rentals for space occupied in state-owned or state-leased buildings, the amounts paid to a city, county, town, village or the division of state police for the enforcement of orders issued pursuant to this article and all other direct or indirect costs.

(b) The commissioner shall on or before February first assess the total amount of such expenses, as so estimated, pro rata upon all insurance carriers subject to the provisions of this section in

proportion to the premiums reported by such carriers to the department of financial services for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state for the year prior to the previous calendar year.

(c) For fiscal years beginning on or after April first, nineteen hundred eighty-three, each such insurance carrier shall make partial payments of the assessment levied against it as follows, one-quarter of the total on March tenth of the preceding fiscal year, one-quarter on June tenth, one-quarter on September tenth, and the balance on December tenth of the fiscal year, or on such other dates as the director of the budget may prescribe. Provided, however, that the payment due March tenth, nineteen hundred eighty-three for the fiscal year beginning April first, nineteen hundred eighty-three shall not be required to be paid until June tenth, nineteen hundred eighty-three. If the total amount due from any such carrier is less than one hundred dollars, partial payments shall not be made and the total amount shall be paid on or before September thirtieth of the fiscal year.

3. Final assessment. (a) The commissioner and the comptroller annually, as soon as practicable after April first, shall ascertain the total amount of expenses incurred during the preceding fiscal year in connection with the administration of this article. An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the commissioner for thirty days after notice to those liable to be assessed for such expenses.

(b) As soon as practicable after January first, each insurance carrier subject to the provisions of this section shall file with the commissioner a report of the total amount of gross direct premiums, less return premiums thereon received during the preceding calendar year for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state.

(c) The commissioner shall then determine the amount of expenses due from each insurance carrier subject to the provisions of this section based upon the final determination of total expenses and the final amount of premiums filed by the insurance carriers and shall notify each such insurance carrier of such assessment. Within thirty days of receipt of such notification each such carrier shall pay the total amount of

such assessment less the total amount paid as a result of the estimated assessments. If the total amount of the final assessment is less than the amount already paid, such excess payment shall be refunded to such insurance carrier or at the option of the assessed applied to assessments for the succeeding fiscal year as requested by such insurance carrier.

4. The commissioner shall levy and collect such assessments and pay the same into the state treasury, subject to the provisions of section one hundred twenty-one of the state finance law.

§ 364. Uniformity of interpretation. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states, the District of Columbia, or territory or lands in continental United States under the exclusive jurisdiction of the United States, or provinces of Canada, which enact it.

§ 365. Short title. This article may be cited as the New York motor vehicle safety-responsibility act.

§ 366. Past application of article. This article, except section three hundred thirty-nine thereof, shall not apply to any judgment in a civil action or cause of action arising out of an accident occurring prior to the effective date of this article.

§ 367. This article does not prevent other process. This article shall not be construed to prevent the plaintiff in any action at law from relying for security upon the other processes provided by law.

§ 368. Constitutionality. If any part or parts of this article shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this article. The legislature hereby

declares that it would have passed the remaining parts of this article if it had known that such part or parts thereof would be declared unconstitutional.

ARTICLE 8

INDEMNITY BONDS OR INSURANCE POLICIES ON VEHICLES TRANSPORTING PASSENGERS FOR HIRE

Section 370. Indemnity bonds or insurance policies; notice of accident.
371. Certificate of department of transportation in lieu of indemnity bonds or insurance policies.

§ 370. Indemnity bonds or insurance policies; notice of accident. 1. Every person, firm, association or corporation engaged in the business of carrying or transporting passengers for hire in any motor vehicle or motorcycle, except street cars, and motor vehicles or motorcycles owned and operated by a municipality, and except as otherwise provided in this section, which shall be operated over, upon or along any public street or highway of the state of New York shall file with the commissioner of motor vehicles for each motor vehicle or motorcycle intended to be so operated evidence, in such form as the commissioner may prescribe, of a corporate surety bond or a policy of insurance: (a) approved as to form by the superintendent of financial services in a company authorized to do business in the state, approved by the superintendent as to solvency and responsibility; or (b) where a vehicle is registered by a not-for-profit organization that is tax-exempt under section 501(c)(3) of the federal internal revenue code, a risk retention group not chartered in this state but which is registered with the superintendent of financial services under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code, provided that the vehicle being registered does not have a seating capacity of more than fifteen passengers, is not a limousine or luxury limousine, and where such vehicles are not solely for personal use by a director, officer,

authorized person, or key person, their relatives or related parties. Such surety bond or policy of insurance shall be conditioned for the payment of a minimum sum, hereinafter called minimum liability, on a judgment or judgments for damages, including damages for care and loss of services, because of bodily injury to, or death of any one person in any one accident, and subject to such minimum liability a maximum sum, hereinafter called maximum liability on a judgment or judgments for damages, including damages for care and loss of services because of bodily injury to, or death of two or more persons in any one accident and for the payment of a minimum sum, called minimum liability on all judgments for damages because of injury to or destruction of property of others in any one accident, recovered against such person, firm, association or corporation upon claims arising out of the same transaction or transactions connected with the same subject of action, to be apportioned ratably among the judgment creditors according to the amount of their respective judgments for damage or injury caused in the operation, maintenance, use or the defective construction of such motor vehicle or motorcycle as follows:

For damages for and incident to death or injuries to persons and injury to or destruction of property: For each motorcycle and for each motor vehicle engaged in the business of carrying or transporting passengers for hire, having a seating capacity of not more than seven passengers, a bond or insurance policy with a minimum liability of twenty-five thousand dollars and a maximum liability of fifty thousand dollars for bodily injury, and a minimum liability of fifty thousand dollars and a maximum liability of one hundred thousand dollars for death and a minimum liability of ten thousand dollars for injury to or destruction of property; for each motor vehicle engaged in the business of carrying or transporting passengers for hire, having a seating capacity of not less than eight passengers, a bond or insurance policy with a combined single limit of at least one million five hundred thousand dollars for bodily injury or death to one or more persons, and because of injury to or destruction of property in any one accident; provided, further that for commuter vans that are engaged in the business of carrying or transporting passengers for hire, having a seating capacity of not less than eight passengers, a bond or insurance

policy with a combined single limit of at least five hundred thousand dollars for bodily injury or death to one or more persons, and because of injury to or destruction of property in any one accident. For the purposes of this paragraph, the term "commuter van" shall have the same meaning as such term is defined in section 19-502 of the administrative code of the city of New York.

Such bond or policy of insurance shall contain a provision for a continuing liability thereunder, notwithstanding any recovery thereon. Any such bond or policy of insurance shall also contain a provision that such bond or policy of insurance shall inure to the benefit of any person legally operating the motor vehicle or motorcycle in the business of the owner and with his permission, in the same manner and under the same conditions and to the same extent as to the owner. If at any time, in the judgment of the commissioner, such bond or policy is not sufficient for any cause the commissioner may require the owner of such motor vehicle or motorcycle to replace such bond or policy with another approved by the commissioner. A corporate surety or an insurance company evidence of whose bond or policy has been so filed, must file a notice in the office of the commissioner that upon the expiration of twenty days from such filing such surety will cease to be liable upon such bond, or in the case of such insurance company, that upon the expiration of such time such policy will be cancelled; provided, however, that where the owner of such motor vehicle or motorcycle has replaced coverage with another insurer, the expiration date shall be the date the new coverage has commenced; further provided that where such owner has had a total loss, the expiration date shall be the earlier of twenty days or when the plates have been turned in to the commissioner. The commissioner shall thereupon notify the owner of such motor vehicle or motorcycle of the filing of such notice, and unless such owner shall file a new bond or evidence of new bond or policy, as provided by this section, on or before such date as shall be specified by the commissioner, or shall place the number plates belonging to the motor vehicle or motorcycle in the custody of the commissioner or his agent within such time, to remain in such custody until a new bond or evidence of a new bond or policy is filed, the registration of such motor vehicle or motorcycle shall be revoked as of the date specified in said notice

of the commissioner and no new registration shall be issued for a period of thirty days. Forthwith after his registration has been so revoked such owner shall return the number plates issued for such vehicle to the commissioner. The provisions of subdivision seven of section five hundred ten of this chapter shall apply to such revocations.

Notwithstanding any contrary provision of this chapter, any such bond, or policy of insurance shall also provide for uninsured motorists coverage in the minimal amount and in the form provided for in subsection (f) of section three thousand four hundred twenty of the insurance law.

Nothing in this subdivision shall be construed to prevent compliance therewith by filing a combination of bonds or policies or of a bond and policy or evidence thereof if the commissioner approves and the requirements of this subdivision are otherwise met.

(c) As a condition to filing evidence of a corporate surety bond, the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in the reduction of the assessment levied pursuant to section three hundred seventeen of this chapter.

(d) As used in this section, a judgment or judgment for damages shall include a final arbitration award and any unpaid fees due to the arbitration forum established pursuant to section five thousand one hundred six of the insurance law.

1-a. Every person, firm, association or corporation engaged in carrying or transporting sick or injured persons in any hearse, combination hearse or ambulance operated over, upon or along a public street or highway within a town having a population of less than two thousand inhabitants, shall secure either a corporate surety bond or policy of insurance executed by a surety or insurance company authorized to do business in this state, containing like conditions to secure the payment of damages as is required to be provided for motor vehicles operated for the transportation of passengers for hire; provided, however, that any bond or policy of insurance so secured, may contain

the condition that it shall secure the payment of damages only during the time or times such hearse or combination hearse or ambulance is used or operated for the transportation of sick or injured persons and shall not be operative or effective during any other time or times or for the payment of damages incurred while being operated for any other purpose. A bond or policy of insurance executed pursuant to the provisions of this subdivision need not be approved or filed notwithstanding any inconsistent provision of this section.

2. Any person, firm, association or corporation operating a motor vehicle or motorcycle as to which a bond or policy of insurance is required by this section who or which shall operate such vehicle, or cause the same to be operated, while such a bond or policy, or evidence thereof as required by this section, is not on file with the commissioner, and in full force and effect shall be guilty of a misdemeanor.

3. A person, firm, association or corporation engaged in the business of renting or leasing rental vehicles to be operated upon the public highways for carrying passengers shall be subject to the provisions of this section in the same manner and to the same extent as if such person, firm, association or corporation were actually engaged in the business of carrying or transporting passengers for hire.

Notwithstanding the provisions of subdivision one of this section, a person, firm, association or corporation engaged in the business of renting or leasing motor vehicles, having registered in this state more than twenty-five motor vehicles subject to the provisions of this section and who qualifies as hereinafter provided, may file a certificate of self-insurance. The commissioner of motor vehicles in his discretion may, upon the application of such a person, firm, association or corporation issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments obtained against such person, arising out of the ownership, maintenance, use or operation of any such person's motor vehicle. Upon due notice and hearing, the commissioner may, in his discretion and upon reasonable

grounds, cancel a certificate of self-insurance.

As a condition to the issuance of a certificate of self-insurance under this subdivision the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in reduction of the assessment levied pursuant to section three hundred seventeen.

As a further condition to the issuance of a certificate of self-insurance, the registrant shall pay annually in addition to any other fee prescribed by this chapter, an amount per vehicle to be determined by the Motor Vehicle Accident Indemnification Corporation pursuant to section five thousand two hundred seven of the insurance law and the aggregate amount of such fees shall be transmitted by the commissioner to the Motor Vehicle Accident Indemnification Corporation continued pursuant to section five thousand two hundred three of the insurance law to be applied in reduction of assessments levied by said corporation pursuant to section five thousand two hundred seven of the insurance law.

4. Every person operating a motor vehicle or motorcycle as to which a bond or policy of insurance is required by this section, which is in any manner involved in an accident, shall within five days give written notice of the time and place of the accident to the surety or insurer. Failure to give notice of an accident as herein provided shall constitute a misdemeanor, but shall not affect the liability of the surety or insurer.

5. If a vehicle subject to the provisions of this section or section three hundred seventy-one of this chapter shall be operated on a public highway without having the minimum corporate surety bond or policy of liability insurance, unless the owner shall have filed an approved certificate of insurance therefor, the driver's license, privileges and registration certificate or privilege of operation within this state of the owner and operator shall be subject to revocation and suspension as provided in articles six and seven of this chapter, in the same manner

as if such vehicle were a private passenger vehicle, not used to carry persons for hire or profit.

6. Notwithstanding any other provision of law, the commissioner, may, by regulation, in addition to, or in lieu of any requirements relating to notice of insurance required by this section, extend all or part of the provisions of article six of this chapter concerning insurance identification cards to vehicles subject to the provisions of this section. Furthermore, the commissioner may exempt by such regulations any type or types of vehicles subject to the provisions of this section where he deems the application of the provisions of such regulations to be inappropriate. If the commissioner promulgates any such regulations, the failure to produce an insurance identification card when requested by any peace officer, acting pursuant to his special duties, police officer or magistrate shall be presumptive evidence of a violation of subdivision two of this section. In addition, any such regulations may require that the insurance identification card be placed in plain view of any for-hire passengers carried in such vehicle.

7. Nothing contained in this section shall prohibit any person, firm, association or corporation subject to this section from purchasing liability insurance coverage in excess of the maximum liability set forth in subdivision one of this section.

8. Notwithstanding any other provision of this article, an individual shall not be deemed to be engaged in the business of carrying or transporting passengers for hire if the individual does so solely as a transportation network company driver in accordance with article forty-four-B of this chapter.

§ 371. Certificate of department of transportation in lieu of indemnity bonds or insurance policies. A person, firm, association or corporation subject to the provisions of the transportation law and required under the provisions of section three hundred seventy of this chapter to file evidence of a corporate surety bond or policy of insurance with the commissioner of motor vehicles in order to so operate

any such motor vehicle, may file with the commissioner of motor vehicles, in lieu of the surety or evidence prescribed in section three hundred seventy of this chapter, a certificate of the department of transportation certifying that such person, firm, association or corporation has complied with the regulations of the department of transportation as to public liability and property damage responsibility and, in the case of such a person, firm, association or corporation also engaged in the business of carrying or transporting passengers for hire in operations not subject to the provisions of the transportation law, that the arrangement of coverage in effect has been extended to cover motor vehicles used in such operations.

ARTICLE 9
EQUIPMENT OF MOTOR VEHICLES AND MOTORCYCLES

Section 375. Equipment.
375-a. Prohibition against retaliatory action.
376. Lamps, signaling devices and reflectors on vehicles.
376-a. Defective equipment.
377. Vehicles engaged in the transportation of logs and other materials.
378. Additional safety requirements for commercial vehicles and vehicles transporting hazardous materials.
380-a. Certain vehicles engaged in the transportation of loose cargo.
381. Motorcycle equipment.
382. Hydraulic brake fluid.
382-a. Brake linings.
382-b. Service brake system.
382-c. Occupant compartments.
383. Safety belts and anchorage assemblies.

§ 375. Equipment. 1. (a) Every motor vehicle, operated or driven upon the public highways of the state, shall be provided with adequate brakes and steering mechanism in good working order and sufficient to control

such vehicle at all times when the same is in use, and a suitable and adequate horn or other device for signaling, which horn or device shall produce a sound sufficiently loud to serve as a danger warning but shall not be used other than as a reasonable warning nor be unnecessarily loud or harsh.

(b) Every such motor vehicle shall be equipped with suitable wipers or other device which shall clear a sufficient area of the windshields to provide reasonable driving vision. (i) The use or placing of posters or stickers on windshields or rear windows of motor vehicles other than those authorized by the commissioner, is hereby prohibited. Notwithstanding any other provision of law, a summons for operating a motor vehicle in violation of this subparagraph shall only be issued when there is reasonable cause to believe that the person operating such motor vehicle has committed a violation of the laws of this state other than a violation of this subparagraph.

(i-a) The attaching to windshields and windshield wipers of handbills and other forms of advertisements, is hereby prohibited.

(ii) In a city of one million or more, the attaching or affixing by any means whatsoever of handbills or other forms of advertisements to a motor vehicle is hereby prohibited. In any prosecution for an alleged violation of this subparagraph, there shall be a rebuttable presumption that the person whose name, telephone number, or other identifying information appears on any handbill or other form of advertisement attached or affixed to a motor vehicle shall be in violation of the provisions of this subparagraph.

(iii) Notwithstanding any other provision of law, in addition to those persons otherwise authorized to enforce this subdivision and adjudicate violations thereof, the provisions of subparagraph (ii) of this paragraph shall also be enforceable in a city having a population of one million or more by an agency or agencies designated for such purpose by the mayor of such city, and notices of violation may be returnable to the environmental control board of such city, which shall have the power to impose the monetary penalties provided in subdivision (b) of section eighteen hundred of this chapter. Notwithstanding any other provision of law, service of a notice of violation of subparagraph (ii) of this paragraph committed in such city may be made upon a person by first class mail, postage prepaid, and any such notice served by mail shall be

returnable only to such environmental control board. Such service by first class mail shall be deemed complete upon mailing of the notice of violation, unless the notice of violation is returned to the sender by the United States postal service for any reason other than refusal of delivery. In addition, any notice of violation for a violation of subparagraph (ii) of this paragraph may be served by a means prescribed in article three of the civil practice law and rules or article three of the business corporation law. Notwithstanding any other provision of law, such penalties imposed by such environmental control board shall be paid into the general fund of such city.

(iv) Any final order issued pursuant to subparagraph (ii) of this paragraph by an environmental control board of a city having a population of one million or more shall constitute a judgment which may be entered in any place provided for the entry of civil judgments within the state, and may be enforced without court proceeding in the same manner as the enforcement of money judgments entered in civil actions. Notwithstanding the preceding sentence, before a judgment based upon a default may be so entered, such environmental control board must have notified the respondent by first class mail in such form as such environmental control board may direct: (A) of the default decision and order and the penalty imposed; (B) that a judgment will be entered in any place provided for the entry of civil judgments in the state; and (C) that the entry of such judgment may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of such environmental control board within thirty days of the mailing of such notice. No judgment based upon a default may be so entered by the environmental control board within thirty days of the mailing of such notice. No judgment based upon a default may be so entered by the environmental control board within less than sixty days from the completion of service by mail of the notice of violation as provided in subparagraph (iii) of this paragraph. Any requirement of any provision of law other than this subdivision that related to the manner of service of the notice of violation that precedes any final order of such environmental control board shall not apply to a final order issued pursuant to this subparagraph. A judgment entered pursuant to this subdivision shall remain in full force and effect for eight years.

(c) Every trailer and semi-trailer weighing more than one thousand pounds unladen and every trailer and semi-trailer manufactured or assembled on or after January first, nineteen hundred seventy-one having a registered maximum gross weight, an actual gross weight or gross weight consisting of the unladen weight and maximum carrying capacity recommended by the manufacturer in excess of three thousand pounds also shall be equipped with adequate brakes in good working order if operated or drawn on the public highways of this state. Every trailer while being drawn upon the public highways of this state shall be so attached to the vehicle drawing the same as to prevent the wheels of such trailer from being deflected more than six inches from the path of the towing vehicle's wheels. On and after January first, nineteen hundred seventy-one every trailer, except a semi-trailer, while being drawn upon the public highways of this state, shall be attached to the vehicle drawing the same by a device of a type approved by the commissioner.

(d) The commissioner shall make rules prescribing standards of brake efficiency, except for motor vehicles the standard of brake efficiency of which are fixed by the department of public service, and no brakes shall be deemed adequate within the meaning of this subdivision unless they meet the requirements of such rules. Such rules shall be filed in the office of the secretary of state and thereafter published once in the state advertising bulletin and shall become effective one month after such publication. Any amendment to such rules shall be likewise filed and published and shall take effect one month after such publication.

(e) No operator or registered owner of any motor vehicle having a registered maximum gross weight of eighteen thousand pounds or more shall disconnect or knowingly permit the disconnection of any set of service brakes on such motor vehicle. Any violation of the provisions of this paragraph shall occur only when such vehicle is actually operated on the public highways. Such violation shall be punishable as a misdemeanor.

2. (a) Every motor vehicle except a motorcycle, driven upon a public highway during the period from one-half hour after sunset to one-half hour before sunrise or at any other time when windshield wipers are in use, as a result of rain, sleet, snow, hail or other unfavorable

atmospheric condition, and at such other times as visibility for a distance of one thousand feet ahead of such motor vehicle is not clear, shall display:

1. at least two lighted head lamps on the front, one on each side, having light sources of equal power;

2. if manufactured prior to January first, nineteen hundred fifty-two, at least one lighted lamp on the rear which shall display a red light visible from the rear for a distance of at least five hundred feet;

3. if manufactured on or after January first, nineteen hundred fifty-two, at least two lighted lamps on the rear, one on each side, which lamps shall display a red light visible from the rear for a distance of at least one thousand feet; and

4. if required to display a number plate on the rear, a white light which shall illuminate the numerals on such plate in such manner as to render such numerals legible for at least fifty feet from the rear. The provisions of this subparagraph shall also apply to trailers.

(b) All lamps used on a motor vehicle except a motorcycle shall be so arranged, adjusted and operated, as to avoid dangerous glare or dazzle. Except as provided in paragraph (d) of this subdivision, the upper outline of any beam of dazzling light projected to the left of the longitudinal axis of the vehicle by the lowermost light distribution of a headlamp designed to produce more than one light distribution, or by the single light distribution of any other lamp used on such a motor vehicle, shall not rise higher than the lamp center at a distance of twenty-five feet nor higher than forty-two inches at a distance of seventy-five feet. In each case, the height of the beam shall be measured from the plane upon which the vehicle stands and the distance shall be measured from the lamp projecting the light.

(c) No lamp shall be used on a motor vehicle having a light source greater than thirty-two candle power, unless such lamp is approved by the commissioner as provided by this section. The provisions of this paragraph shall not apply to any light which is permitted to be displayed only on an authorized emergency vehicle, a hazard vehicle or a

vehicle which is permitted to display a blue or green light pursuant to paragraphs four and five of subdivision forty-one of this section.

(d) A motor vehicle, other than a motorcycle, equipped with any device such as, but not limited to, a snow plow blade, which blocks or impairs the projection of light from the headlamps of such vehicle, shall be equipped with at least two additional headlamps on the front which headlamps meet all the requirements of this subdivision for headlamps except those provisions of paragraph (b) of this subdivision specifically limiting the height of the beam of any headlamp.

3. Headlamps required pursuant to the provisions of subdivision two of this section may be of the multiple beam type designed to produce more than one distribution of light or of the single beam type designed to produce only one distribution of light.

Provided that, whenever a vehicle approaching from ahead is within five hundred feet, or when approaching a moving vehicle from the rear and within two hundred feet of the same, the headlamps, if of the multiple beam type, or the auxiliary front facing lamps, if the vehicle is so equipped, shall be operated so that dazzling light does not interfere with the driver of the approaching vehicle, or the vehicle being approached, and, whenever the highway is so lighted or traffic thereon is such that illumination of the highway for more than two hundred feet ahead of the vehicle by lights on such vehicle is unnecessary or impracticable, the headlamps, if of the multiple beam type, or the auxiliary front facing lamps, if the vehicle is so equipped, shall be operated with the lowermost distribution of light in use. Nothing contained in this subdivision shall be construed to prevent the use of flashing high beams to signify an intention to pass a vehicle or vehicles when two or more vehicles are traveling in the same direction, the operation of any headlamp as defined in paragraph d of subdivision two of this section, nor shall it apply to any auxiliary front facing lamp permitted to be displayed only on an authorized emergency vehicle.

4. No headlamp shall be used upon any motor vehicle except a motorcycle operated upon the public highways of this state, unless such

lamp is approved by the commissioner or is equipped with a lens or other device approved by the commissioner. Every such headlamp, lens or other device shall be applied and adjusted in accordance with the requirements of the certificate approving the use thereof. Every such headlamp shall be firmly and substantially mounted on the motor vehicle in such manner as to allow the lamp to be properly and readily adjusted. The operator of every motor vehicle shall permit any police officer or other person exercising police powers to inspect the equipment of such motor vehicle, and make such tests as may be necessary to determine whether the provisions of this section are being complied with.

Any certificate of approval heretofore issued pursuant to law, or hereafter issued by the commissioner may be revoked by the commissioner, after a hearing of which the person or corporation named therein, or his or its successor in interest, shall have been given reasonable notice and an opportunity to appear and be heard upon the ground that the device does not comply with the provisions of this section, and the rules and regulations of the commissioner and the decision of the commissioner revoking such certificate shall be final; such revocation, however, of a lens or other headlighting device heretofore or hereafter approved shall not take effect until six months after the decision of the commissioner revoking the same and shall apply only to vehicles manufactured and used thereafter on the highways of this state.

The foregoing provisions governing lights on motor vehicles do not apply to so-called dimmers the use of which is permitted or required by local ordinances.

The commissioner may make such rules and regulations relative to lights on motor vehicles and the approval of the same as are not inconsistent with the specific provisions of this section.

7. It shall be unlawful for any person, firm, association or corporation to sell or offer for sale a headlighting device without delivering therewith to the purchaser a printed sheet of instructions describing the device in detail, its method of mounting, arrangement and adjustment and specifying the candle power of the lamps to be used

thereon and any other matter that may be necessary to insure compliance in the use of such device with the provisions of this article and the certificate of approval. Such instructions shall be printed with a photogravure of the pattern of light from one headlight shown on a regulation testing screen with respect to a horizontal cross line placed across the face of such screen at a height equal to the height of the center of such headlight, and with the headlight adjusted in accordance with the rules and regulations of the commissioner. The sale of a headlighting device not approved under the provisions of this section is prohibited. A violation of any of the provisions of this subdivision shall be a misdemeanor.

9. Every omnibus operating upon the public highways of the state having a carrying capacity of ten or more passengers, shall be equipped with one hand fire extinguisher of at least 4 B:C Underwriters' Laboratories rating or a similar rating by any qualified laboratory or testing organization which meets the criteria of American Society for Testing Materials test E548-76. Fire extinguishers shall be kept in good operating condition at all times and must be mounted in a place readily accessible for use.

10. a. Every motor vehicle, when driven or operated upon a public highway, shall be equipped with a mirror or other reflecting device so adjusted that the operator of such vehicle shall have a clear and full view of the road and condition of traffic behind such vehicle.

b. In addition to the above requirements, an omnibus having a capacity of ten or more passengers registered in this state and manufactured or assembled after July first, nineteen hundred seventy, shall be equipped with a mirror attached to the right side of such vehicle and so adjusted that the driver thereof shall have a clear and full view of the road and condition of traffic behind such vehicle.

c. Every passenger motor vehicle registered in this state and manufactured or assembled after June thirtieth, nineteen hundred sixty-nine, and designated as a nineteen hundred seventy or subsequent year model, shall be equipped with adjustable interior mirrors meeting

specifications established by the commissioner which specifications may provide minimum and maximum reflectance values.

d. Every new passenger-type motor vehicle, except a motorcycle, manufactured for sale in New York state on or after January first, in the year next succeeding the effective date of this paragraph shall be manufactured with an interior rear-view mirror of the selective position prismatic type with a reflectance value in the night driving position of at least four percent; or its functional equivalent. For purposes of this section, "passenger-type motor vehicle" shall mean any motor vehicle with a seating capacity of not more than fifteen adults, not including the driver, that is equipped with one or more rear windows. Any violation of the provisions of this paragraph by any manufacturer shall constitute an offense and shall be punishable by a civil fine of not more than seven hundred fifty dollars for each offense.

e. Every single-unit motor vehicle registered in this state, operated for commercial purposes and having a cube style or enclosed walk-in delivery bay, where such delivery bay has a length of eight feet six inches or more, but not exceeding a length of eighteen feet, shall be equipped with a cross-view back-up mirror system, rear video system, rear object detection system , or other device, which enables the driver of the vehicle to detect by means of a visual, or visual and audible warning-indicator, persons and objects located directly behind the vehicle. The commissioner is hereby authorized to promulgate regulations providing specifications for mirrors or other devices as required by this paragraph.

f. Every sani-van and motor vehicle commonly classified as a garbage truck purchased on or after January first, two thousand eight and registered in this state, which is operated in and engages in the collection of garbage or refuse in the county of Westchester shall be equipped with a rear video system, rear object detection system, or other device which enables the driver of the vehicle to detect by means of a visual, or visual and audible warning-indicator, persons and objects located directly behind the vehicle. The commissioner is hereby authorized to promulgate regulations providing specifications for

mirrors or other devices as required by this paragraph. Provided, however, that the provisions of this paragraph shall not apply to motor vehicles commonly classified as rolloff vehicles that are used for the express purpose of transporting waste containers such as open boxes or compactors.

10-a. It shall be unlawful after July first, nineteen hundred sixty-seven to operate on any public highway in this state any motor vehicle registered in this state, manufactured or assembled on or after such date, and designated as a nineteen hundred sixty-eight or later model, unless such vehicle is equipped with an adjustable side view mirror which shall be affixed to the left outside of such vehicle and which shall be adjustable so that the operator of such vehicle may have a clear view of the road and condition of traffic on the left side and to the rear of such vehicle.

10-b. It shall be unlawful after June thirtieth, nineteen hundred seventy-three to operate on any public highway or street in this state, any passenger type motor vehicle except convertible, suburban and omnibus or other motor vehicle that has a roll-down rear window or a rear window or windows located in a movable closure (door-like) member registered in this state, manufactured or assembled after said date, and designated as a nineteen hundred seventy-four or subsequent model unless such vehicle be equipped with a rear window defogger or defroster, which shall be so located and adjusted that its operation will give the operator of such vehicle, by means of the mirror or other reflecting device required by subdivision ten of this section, a view of the road and the condition of traffic behind such vehicle.

10-c. It shall be unlawful after June thirtieth, nineteen hundred eighty-five to operate on any public highway or street in this state, any passenger type motor vehicle that has a rear window or windows located in a movable closure (door-like) member, except for a multipurpose passenger vehicle (designed to carry ten persons or less and constructed either on a truck chassis or with special features for occasional off-road operation) registered in this state and manufactured or assembled after said date, and designated as a nineteen hundred

eighty-six or subsequent model unless such vehicle be equipped with a rear window defogger or defroster, which shall be so located and adjusted that its operation will give the operator of such vehicle, by means of the mirror or other reflecting device required by subdivision ten of this section, a view of the road and the condition of traffic behind such vehicle.

10-d. It shall be unlawful after December thirty-first, nineteen hundred ninety-two to operate on any public highway or street in this state, any passenger type motor vehicle that has a rear window located in a single movable closure (door-like) member and which has a non-removeable top, registered in this state and manufactured or assembled after said date, and designated as a nineteen hundred ninety-three or subsequent model unless such vehicle be equipped with a rear window defogger or defroster, which shall be so located and adjusted that its operation will give the operator of such vehicle, by means of the mirror or other reflecting device required by subdivision ten of this section, a view of the road and the condition of traffic behind such vehicle.

* 10-e. Every truck, tractor, and tractor-trailer or semitrailer combination registered in this state having a gross vehicle weight rating of twenty-six thousand pounds or more, and a conventional cab configuration in which more than half of the engine length is forward of the foremost point of the windshield base and the steering wheel hub is in the forward quarter of the vehicle length, whenever operated within a city having a population of one million or more on highways other than controlled-access highways, shall be equipped with a convex mirror on the front of such vehicle or combination of vehicles. When such vehicle or combination of vehicles is being operated, such mirror shall be adjusted so as to enable the operator thereof to see all points on an imaginary horizontal line which: (a) is three feet above the road, (b) is one foot directly forward from the midpoint of the front of such motor vehicle, and (c) extends the full width of the front of such vehicle or combination of vehicles. Provided, however, the commissioner, in consultation with the commissioner of transportation, may promulgate rules and regulations exempting from the requirements of this subdivision any vehicle or combination of vehicles where such

commissioner has determined that the use of such convex mirrors would not increase the visibility of persons or objects located directly in front of such vehicle or combination of vehicles.

* NB Repealed upon conditions set forth in chapter 138 of 2011 § 2

11. It shall be unlawful after January first, nineteen hundred thirty-four to operate on any public highway or street, in this state, a motor vehicle manufactured or assembled after said date, designed or used for the purpose of carrying passengers for hire, or as a public conveyance to transport school children and others, unless such vehicle be equipped with safety glass wherever glass is used in doors, windows and windshields.

12. It shall be unlawful to operate on any public highway or street in this state any motor vehicle registered in New York state unless such vehicle be equipped with safety glass wherever glass is used in doors, windows and windshields. For the purposes of this subdivision, any device other than a trailer, which is attached to or carried upon a motor vehicle and which lawfully can be occupied while the motor vehicle is in motion, shall be considered a part of such motor vehicle.

12-a. (a) Every motor vehicle, except a motorcycle, when driven or operated upon a public highway, road or street shall be equipped with a front windshield in a fixed and more or less upright position constructed of safety glass as defined in subdivision fourteen of this section and required by subdivisions eleven and twelve hereof. No person shall drive any motor vehicle with any sign or other nontransparent material other than a certificate or paper required to be displayed by law upon the front windshield or the sidewings or side windows on either side forward of or adjacent to the operator's seat.

(b) No person shall operate any motor vehicle upon any public highway, road or street:

(1) the front windshield of which is composed of, covered by or treated with any material which has a light transmittance of less than seventy percent unless such materials are limited to the uppermost six inches of the windshield; or

(2) the sidewings or side windows of which on either side forward of

or adjacent to the operator's seat are composed of, covered by or treated with any material which has a light transmittance of less than seventy percent; or

(3) if it is classified as a station wagon, sedan, hardtop, coupe, hatchback or convertible and any rear side window has a light transmittance of less than seventy percent; or

(4) the rear window of which is composed of, covered by or treated with any material which has a light transmittance of less than seventy percent. A rear window may have a light transmittance of less than seventy percent if the vehicle is equipped with side mirrors on both sides of the vehicle so adjusted that the driver thereof shall have a clear and full view of the road and condition of traffic behind such vehicle.

(c) Any person required for medical reasons to be shielded from the direct rays of the sun and/or any person operating a motor vehicle belonging to such person or in which such person is an habitual passenger shall be exempt from the provisions of subparagraphs one and two of paragraph (b) of this subdivision provided the commissioner has granted an exemption and notice of such exemption is affixed to the vehicle as directed by the commissioner. The applicant for such exemption must provide a physician's or nurse practitioner's statement with the reason for the exemption, the name of the individual with a medically necessary condition operating or transported in the vehicle, the specific condition involved, and the minimum level of light transmission required. The commissioner shall only authorize exemptions where the medical condition certified by the physician or nurse practitioner is contained on a list of medical conditions prepared by the commissioner of health pursuant to subdivision sixteen of section two hundred six of the public health law. If such exemption is granted, the commissioner shall make a record thereof and shall distribute a sufficiently noticeable sticker to the applicant to be attached to any window so shielded or altered pursuant to such exemption.

(d) The commissioner may test any window for a person who has been charged with violating this subdivision. If such window is found to be in conformity with this subdivision, a small label attesting to the conformity shall be affixed to the window tested.

(e) On and after January first, nineteen hundred ninety-two, no person

shall manufacture, sell, offer for sale, equip or operate a motor vehicle in this state in violation of the provisions of this subdivision, except that a person may operate a nineteen hundred ninety-one or earlier model year vehicle without violating this subdivision if the windows on said vehicle were in conformity with this subdivision as it existed on December thirty-first, nineteen hundred ninety-one.

(f) The commissioner shall make such rules and regulations as he shall deem necessary to carry out the provisions of this subdivision.

(ff) Notwithstanding any other provision of this section or any other general, special or local law, charter, administrative code, ordinance, rule or regulation to the contrary, any person operating a motor vehicle in a burial or funeral procession while travelling to or from a funeral, interment or cremation may place a funeral sign no larger than eight and one half by fourteen inches in any window of such vehicle, as long as such sign when so placed will not prevent such person from having a clear and full view of the road and the condition of traffic behind such vehicle.

13. It shall be unlawful for any person, firm or corporation to replace glass in doors, windows, or windshields of motor vehicles unless such replacement be made with safety glass.

14. The term "safety glass" as used in this section shall be construed to mean any product composed of glass, so manufactured, fabricated or treated as substantially to prevent shattering and flying of the glass when struck or broken, or such other or similar product as may be approved by the commissioner.

15. The commissioner of motor vehicles shall maintain a list of types of glass approved by him as conforming to the specifications and requirements for safety glass as set forth in this section, and shall not issue a license for or relicense any motor vehicle subject to the provisions of subdivisions eleven and twelve unless such motor vehicle be equipped as therein provided with such approved type of glass.

16. The owner and operator of any motor vehicle operated in violation

of the provisions of subdivisions eleven and twelve shall be guilty of a traffic infraction. In case of the violation of such subdivisions by any common carrier or person operating under a permit issued by the public service commission (or other authorized body or person), said permit shall be revoked, or, in the discretion of the commissioner, suspended until the provisions of such subdivisions are satisfactorily complied with.

17. Every omnibus having a seating capacity of more than ten passengers, every truck having a maximum gross weight in excess of twelve thousand pounds and every combination of tractor and trailer operated upon a public highway shall carry emergency lighting equipment ready at all times for immediate use. The equipment of the vehicle or combination of vehicles may consist of flares of the type used by railroads, flaring candles, torches, lanterns or red emergency reflectors provided it is adequate to provide a warning light in all kinds of weather both in front of and in the rear of the vehicle for at least eight hours. No red emergency reflector shall be deemed adequate within the meaning of this subdivision unless it is of a size and type approved by the commissioner, and conforms to minimum specifications established by him, which minimum shall not be less than the minimum established by the interstate commerce commission for buses and trucks in interstate commerce. When any such vehicle or a combination of vehicles, except an omnibus which stops for the purpose of taking on or discharging passengers, is parked or left standing on a public highway except within a city or incorporated village, during the period from one-half hour after sunset to one-half hour before sunrise, the operator of such vehicle or combination of vehicles shall cause at least one light, or reflector or lighted flare to be placed on the highway in front of such vehicle or combination of vehicles, and at least one light, reflector or lighted flare on the highway in the rear of such vehicle or combination of vehicles at a distance of approximately one hundred feet in the front of and at the rear of such vehicle or combination of vehicles, provided that if such vehicle is parked or left standing within three hundred feet of a curve, crest of hill, or other obstruction, the flare, candle, torch, lantern, or reflector in that direction shall be so placed as to afford ample warning to other highway

users but in no case less than approximately one hundred feet or more than approximately three hundred feet from the stopped vehicle.

18. Except as otherwise provided herein, it shall be unlawful to operate on any public highway or street in this state any motor vehicle, or combination of motor vehicle and trailer, so constructed or so loaded that the driver thereof is unable to indicate clearly by hand signals to approaching and following traffic his intention of stopping or turning, unless such motor vehicle or combination of vehicles shall be equipped with directional signals approved by the commissioner, provided, however, it shall be unlawful after January first, nineteen hundred fifty-two to operate on any public highway or street in this state any motor vehicle registered in this state, manufactured or assembled after said date unless such vehicle be equipped with directional signals approved by the commissioner. It shall also be unlawful to fail to cause such signals to be maintained, at all times in good and sufficient working order. The provisions of this subdivision shall not apply to special purpose commercial motor vehicles registered under schedule F of subdivision seven of section four hundred one of this chapter or to a vehicle or combination of vehicles lawfully operated under registration issued, under section four hundred fifteen of this chapter or under a similar provision of the law of another jurisdiction.

18-a. Any motor vehicle may be equipped with and every motor vehicle registered in this state and manufactured or assembled after June thirtieth, nineteen hundred sixty-five, and designated as a nineteen hundred sixty-six or subsequent year model, shall be equipped with a device, approved by the commissioner, by means of which the operator may cause the two front and two rear directional signals to flash simultaneously for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing. The provisions of this subdivision requiring that certain motor vehicles shall be so equipped shall not apply to special purpose commercial motor vehicles registered under schedule F of subdivision seven of section four hundred one or to a vehicle or combination of vehicles lawfully operated under registration issued under section four hundred fifteen.

19. It shall be unlawful for the owner to operate, park or stand a motor vehicle or trailer on any public highway or street in this state, or to authorize another to so operate, park or stand a motor vehicle or trailer, with the consent of such owner, expressed or implied, unless such motor vehicle or trailer be equipped and lighted as provided by this section and by section three hundred seventy-six, and the operation, parking or standing on a public highway or street in this state of a motor vehicle or trailer which is not so equipped and lighted or which is defectively equipped and lighted is hereby prohibited.

20. Every omnibus having a seating capacity of more than seven passengers, used exclusively to transport pupils, teachers and other persons acting in a supervisory capacity to and from school or school activities, or to transport children, instructors or other persons acting in a supervisory capacity to and from child care centers maintained for migrant farm and food processing laborers or to transport children, instructors or other persons acting in a supervisory capacity to and from camp or camp activities, or to transport children, instructors or other persons acting in a supervisory capacity to and from religious services or instruction shall be equipped in the manner provided by this subdivision and any such omnibus used by any state facility or not-for-profit agency licensed by the state and used to transport persons with disabilities, instructors or other persons acting in a supervisory capacity may be equipped in the manner provided by this subdivision:

(a) For each such omnibus having a seating capacity in excess of fifteen children, there shall be colored flashing signal lamps conforming to regulations prescribed by the commissioner on the front and on the rear thereof, including at least one flashing red signal lamp on the front thereof and at least one flashing red signal lamp on the rear thereof. For each such omnibus having a seating capacity of not more than fifteen children, there shall be colored flashing signal lamps conforming to regulations prescribed by the commissioner facing the front and facing the rear thereof, and at least one flashing red signal lamp facing the front thereof and at least one flashing red signal lamp facing the rear thereof. The driver of every such vehicle shall keep

such red signal lamps lighted whenever passengers are being received or discharged or whenever he has stopped within fifty feet to the rear of a vehicle with such red signal lamps lighted, and shall light all other required signal lamps, as a warning, prior to stopping to receive or discharge passengers in accordance with regulations prescribed by the commissioner.

(b) (1) In addition to such signal lamps, two signs shall be conspicuously displayed on the exterior of every such omnibus designating it as a school omnibus by the use of the words "SCHOOL BUS" which shall be painted or otherwise inscribed thereon in black letters. Such letters shall be of uniform size, at least eight inches in height, and each stroke of each letter shall be not less than one inch in width. The background of each such sign shall be painted the color known as "national school bus chrome." For each such omnibus having a seating capacity in excess of fifteen children, such signs shall be securely mounted on top of such vehicle, one of which shall be affixed on the front and one on the rear thereof. For each such omnibus having a seating capacity of not more than fifteen children, such signs shall be securely mounted on top of such vehicle, one of which shall face the front and one of which shall face the rear thereof. Each such sign shall be visible and readable from a point at least two hundred feet distant.

(2) The universal handicapped symbol shall be conspicuously displayed on the exterior of every omnibus equipped with a wheelchair lift which transports children with disabilities. The commissioner shall promulgate regulations regarding the size and location of such universal handicapped symbol. The commissioner shall require that any new signage relating to accessibility installed or replaced on or after the effective date of the chapter of the laws of two thousand fourteen which amended this subparagraph depict the logo promulgated by the secretary of state pursuant to section one hundred one of the executive law.

(c) In the event such vehicle is operated on a public highway during the period between one-half hour after sunset and one-half hour before sunrise, the signs required by paragraph (b) of this subdivision shall be illuminated as to be visible from a point at least five hundred feet distant.

(d) Every such omnibus shall be equipped as provided in paragraphs (a) and (b) of this subdivision, and such signs shall be displayed and

illuminated in accordance with paragraphs (b) and (c) of this subdivision, and such signal lamps shall be operated as provided in paragraph (a) of this subdivision at all times when such omnibus shall be engaged in transporting pupils to and from school or school activities or in transporting children to and from child care centers maintained for children of migrant farm and food processing laborers, or in transporting children to and from camp or camp activities or transporting children to and from religious services or instruction or transporting persons with disabilities on any such omnibus used by any state facility or not-for-profit agency licensed by the state.

(e) Every such omnibus, having its engine located ahead of the driver, with a seating capacity of more than twelve school children shall be equipped with a mirror, convex in shape, at least eight inches in diameter, firmly mounted at hood, windshield or fender-top height in front of the bus. It shall be located on either the left or right side of the bus in such manner that the seated driver may observe through its use the road from the front bumper forward to the point where direct observation is possible.

(f) The commissioner of motor vehicles is hereby authorized and empowered to adopt and, from time to time, to amend such regulations, not inconsistent with this subdivision, governing the color, number, size, type, construction and use of such signal lamps and signs, as he may deem necessary for public safety. On and after July first, nineteen hundred fifty-one, no such signal lamp or sign shall be deemed to comply with the requirements of this subdivision unless it is of a size and type approved by the commissioner and unless it shall conform to the specifications prescribed and promulgated by him.

(g) In the event, however, that such an omnibus, equipped as herein provided, shall cease to be used to transport pupils or pupils and teachers or children of migrant laborers and migrant child care center instructors, or children and camp instructors, the equipment, markings and paint, herein provided for, shall be removed and changed within fifteen days after relicense. Nothing contained in this section, however, shall be deemed to waive any other requirements as to equipment, markings and paint, contained in this chapter.

(h) All the provisions of this chapter relating to school buses shall apply with equal force and effect to buses used in transporting children

and instructors to and from child care centers maintained for children of migrant farm and food processing laborers and to buses used in transporting children to and from camp or camp activities and to buses used in transporting children to and from religious services or instruction. As used in this subdivision, camp or camp activities shall mean day camp or day camp activities respectively.

(i) Every omnibus subject to the provisions of this subdivision shall be operated with headlights and taillights illuminated at all times of day or night.

(j) The commissioner of transportation, in his discretion, by regulation or upon written request, by departmental order, for good cause, may exempt any school bus that does not receive or discharge passengers on or along the public highways on regularly scheduled routes from the requirements of any or all paragraphs of subdivisions twenty and twenty-one of this section.

(k) All omnibuses manufactured or assembled prior to April first, nineteen hundred seventy-seven and all omnibuses manufactured or assembled after April first, nineteen hundred seventy-seven which do not meet federal standards for school bus safety, shall be phased out of use beginning with the nineteen hundred ninety-six--nineteen hundred ninety-seven school year and ending with the nineteen hundred ninety-seven--nineteen hundred ninety-eight school year. In each of such school years, at least one-half of such omnibuses shall be retired from use according to the following formula: in the nineteen hundred ninety-six--nineteen hundred ninety-seven school year, the minimum number of such omnibuses to be phased out of each owner/operator's fleet shall be the total number of such omnibuses divided by two and rounded upwards to the nearest whole number. All such omnibuses remaining shall be phased out in the nineteen hundred ninety-seven--nineteen hundred ninety-eight school year.

Notwithstanding the foregoing provisions of this paragraph the commissioner of education may make exceptions on a case by case basis if a school district certifies to the commissioner of education that a certain omnibus should not be retired for reason of economic hardship and the commissioner of transportation determines upon inspection that such omnibus is in good working order. In making his determination, the

commissioner of transportation shall consider, among other relevant factors, the relative age and structure of each such omnibus. When such determination is made, every such omnibus so certified shall be reinspected by the commissioner of transportation once every six months. Any school district receiving an exemption from the provisions of this paragraph for any omnibus shall provide to the commissioner of education an annual recertification of economic hardship.

(l)(1) Every such omnibus used on a regular basis to transport pupils with a disability on a regularly scheduled route shall, with the written consent of the parent, guardian, or person in a position of loco parentis, have maintained on such omnibus the following information about each such pupil:

(i) name;

(ii) nature of the disability; and

(iii) the name of such pupil's parent, guardian, or person in a position of loco parentis and one or more telephone numbers where such person can be reached in an emergency, and/or the name and telephone number of any other person designated by such parent, guardian or person in a position of loco parentis as a person who can be contacted in an emergency.

(2) Such information shall be used solely for the purpose of contacting such pupil's parent, guardian, person in a position of loco parentis, or designee in the event of an emergency involving such pupil, shall be kept in a manner which retains the privacy of the pupil, and shall not be accessible to any person other than the driver or a teacher acting in a supervisory capacity. Provided, however, that in the event that such driver or teacher is incapacitated, such information may be accessed by any emergency services provider for the purpose authorized by this subparagraph.

(3) Such information shall be updated as needed, but at least once each school year. Such information shall be destroyed if: parental consent is revoked; the pupil no longer attends such school; or, the disability no longer exists.

(4) For the purposes of this paragraph, the term "disability" shall mean a physical or mental impairment that substantially limits one or more of the major life activities of a pupil, whether of a temporary or permanent nature.

21. Every motor vehicle having a seating capacity of more than seven passengers, and used primarily to transport pupils or pupils and teachers to and from school, shall be painted the color known as "national school bus chrome."

In the event, however, such a motor vehicle so painted shall cease to be used to transport pupils or pupils and teachers, the color of paint herein provided for, shall be changed to another color, within fifteen days of relicense.

21-a. In any case where a New York state police or New York city, Albany, Buffalo, Rochester, Syracuse or Yonkers police department vehicle is painted a distinctive color which would designate it in the public's view as such a state or city police vehicle, the purchaser of such vehicle shall cause the color of its paint to be altered within fifteen days of registration.

21-b. The commissioner shall promulgate rules and regulations for the use of two-way radios on school buses.

21-c. The commissioner, in consultation with the commissioner of transportation, shall promulgate rules and regulations for the use of stop-arms on school buses which shall include provisions for a second stop-arm to be located on the driver's side as close as is practical to the rear corner of the bus. Every school bus designed with a capacity of forty-five persons or more, and manufactured for use in this state on or after January first, two thousand two shall be equipped with a second stop-arm in compliance with such regulations.

21-d. The commissioner shall promulgate rules and regulations for the use of back up beepers on school buses.

21-e. The commissioner shall promulgate rules and regulations for the use of front crossing arms on school buses.

21-f. The commissioner shall promulgate rules and regulations for the

use of safety sensor devices on school buses.

21-g. Every school bus manufactured for use in this state after April first, nineteen hundred ninety, shall be equipped with back-up beepers.

* 21-h. It shall be unlawful for any motor vehicle having a seating capacity of more than seven passengers, and used primarily to transport pupils or pupils and teachers to and from school to be mounted with, or have placed or installed thereon any sign, placard or other display except as provided by law. Provided, however, that the provisions of this subdivision shall not apply to such motor vehicles operating in a city with a population of one million or more.

* NB There are 2 sub. 21-h's

* 21-h. (a) Every school bus manufactured for use in this state on or after April first, two thousand, shall be equipped with exterior reflective markings which comply with the rules and regulations promulgated by the commissioner pursuant to paragraph (c) of this subdivision.

(b) Every school bus used to transport ten or more passengers in this state on or after September first, two thousand two, shall be equipped with exterior reflective markings which comply with the rules and regulations promulgated by the commissioner pursuant to paragraph (c) of this subdivision.

(c) The commissioner shall promulgate rules and regulations for exterior reflective markings required to be attached on school buses. Such rules and regulations:

(1) shall require the rear of school buses to be marked with reflective material to outline the perimeter of the back of the bus and of the rear emergency exit;

(2) shall require the horizontal application of strips of reflective material, not less than one and three-quarters inches wide, above the rear windows, and above the rear bumper from the edges of the rear emergency exit door to both corners of the school bus with vertical strips of reflective material at each corner connected to the horizontal strips;

(3) shall require the horizontal application of strips of reflective material, not less than one and three-quarters inches wide, the entire length of the sides of the school bus body and located equidistant

between the floorline and the beltline of the bus; and

(4) may require the marking of the front, rear or both bumpers of school buses with reflective material between one and three-quarters and two and one-quarter inches wide applied thereto at a forty-five degree angle to the center line of the road surface.

* NB There are 2 sub. 21-h's

21-i. (a) (1) Every school bus manufactured on or after January first, nineteen hundred ninety, fueled with other than diesel fuel and used to transport three or more students who use wheelchairs or other assistive mobility devices or with a total capacity of more than eight passengers and used to transport students who use wheelchairs or other assistive mobility devices shall be equipped with an engine fire suppression system.

(2) Every school bus manufactured for use in this state on or after September first, two thousand seven fueled with diesel fuel and used to transport three or more students who use wheelchairs or other assistive mobility devices or with a total capacity of more than eight passengers and used to transport students who use wheelchairs or other assistive mobility devices shall be equipped with an engine fire suppression system.

(b) The commissioner of the department of transportation shall promulgate rules and regulations establishing standards for the use of engine fire suppression systems on school buses used to transport students who use wheelchairs or other assistive mobility devices.

* 21-j. (a) Every school bus which is owned and operated by a school district or which is privately owned and operated for compensation under contract with such district may be equipped with signs, placards or other displays giving notice to approaching motor vehicle operators that school bus photo violation monitoring systems are in use, provided that such school district has entered an agreement pursuant to section twenty-two of chapter one hundred forty-five of the laws of two thousand nineteen with a county, city, town or village which has established a demonstration program pursuant to section eleven hundred seventy-four-a of this chapter imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with section eleven hundred seventy-four of this chapter. Such signs, placards or other displays

shall comply with the rules and regulations promulgated by the commissioner pursuant to paragraph (b) of this subdivision.

(b) The commissioner shall promulgate rules and regulations for the content, size and placement on school buses of a sign, placard or other display, as authorized pursuant to paragraph (a) of this subdivision, giving notice to approaching motor vehicle operators that school bus photo violation monitoring systems are in use.

* NB Repealed December 1, 2024 and also upon specific provisions set forth in chapter 325 of 2021 § 3

22. It shall be unlawful to operate a motor vehicle upon the public highways of this state which is equipped with any glass which is so broken, fractured or discolored as to distort visibility.

23. Every motor vehicle operated for hire upon the public highways of this state shall be equipped with handles or other devices which shall permit the door or doors to the passenger compartment to be readily opened from the interior of the vehicle.

24. It shall be unlawful to operate upon any public highway in this state a motor vehicle which is equipped with a television receiving set within view of the operator or in which a television receiving set is in operation within the view of the operator. A motor vehicle shall not be deemed to be equipped with a television receiving set solely because such set utilizes power from such vehicle. The provisions of this subdivision shall not prohibit a vehicle with a weight of ten thousand pounds or more or a school bus from using closed-circuit television receiving equipment exclusively for safety and maneuvering purposes, in accordance with regulations to be established by the commissioner.

24-a. It shall be unlawful to operate upon any public highway in this state a motor vehicle, limited use automobile, limited use motorcycle or bicycle while the operator is wearing more than one earphone attached to a radio, tape player or other audio device.

25. (a) On and after the first day of January, nineteen hundred seventy-four it shall be unlawful to operate on any public highway or

street in this state any tractor, commercial motor vehicle, combination of a commercial motor vehicle and trailer, or combination of a truck-tractor and semi-trailer which is not so constructed or equipped as reasonably to bar water or other road surface substances from being thrown by the rearmost wheels beyond the extreme rear of the vehicle or combination of vehicles, and to minimize side spray.

(b) Unless the commercial vehicle or combination vehicle is so designed or constructed to accomplish the objectives set forth in paragraph (a) of this subdivision by reason of fender or body construction or other means of enclosure, any such commercial vehicle or combination vehicle shall be equipped, on and after January first, nineteen hundred fifty-seven, with splash guards and stone deflectors which shall be composed of materials substantial enough to withstand ripping or tearing by ordinary means and withstand the action of the elements for a reasonable length of time. Such splash guards and stone deflectors shall also have a reasonable degree of flexibility and the distance from the lower end thereof to the ground shall not exceed one-third of the distance, measured along the ground, from the bottom of the splash guard to the point of contact of the rear wheel.

(c) The commissioner of motor vehicles is hereby authorized and empowered to make rules and regulations with respect to splash guards and stone deflectors, their type and construction, manner of attachment to vehicles and all other matters requisite for the proper effectuation of the purposes of this subdivision. In making such rules and regulations the commissioner shall be guided by the desirability of uniformity in requirements with regard to splash guards and stone deflectors among the several states.

(d) The provisions of this subdivision shall not apply to motor vehicles, trailers and semi-trailers registered pursuant to subdivision thirteen of section four hundred one of this chapter, and not operated upon the public highways in excess of one and one-half miles by direct route between farms or portions of farms under single or common ownership or operation.

26. A gong or siren whistle shall not be used on any vehicle other than an authorized emergency vehicle. This shall not be construed to apply to a gong or siren designed and used solely as a burglar alarm on

a vehicle.

27. When a vehicle (a) has a crane, boom or other similar device attached or (b) is loaded with any material, and such crane, boom, device or material extends four feet or more beyond the front or rear of such vehicle, such vehicle shall be provided with a red flag not less than twenty-four inches square by day and a red light visible from the rear and an amber light visible from the front for a distance of at least five hundred feet by night on the extreme end of the extending portion of such crane, boom, device or material.

28. No person shall operate upon a public highway a vehicle which emits unnecessary smoke or unnecessary offensive vapors.

28-a. Except as permitted or authorized by law, no person shall remove, dismantle or otherwise cause to be inoperative any equipment or feature constituting an operational element of a motor vehicle's air pollution control system or mechanism required by federal or state law or by any rules or regulations promulgated pursuant thereto.

28-b. Except where inconsistent with federal law, every motor vehicle registered in this state and manufactured or assembled after June thirty, nineteen hundred sixty-three shall be equipped with a crankcase ventilating system of a type approved by the state commissioner of environmental conservation for the purpose of reducing the emission of pollutants into the atmosphere. Such system shall be maintained in good working order in continued conformity with standards promulgated by the state commissioner of environmental conservation. For the purposes of this subdivision the term "motor vehicle" shall exclude diesel powered motor vehicles, motorcycles, vehicles driven by electric power and special purpose commercial motor vehicles registered under paragraph F of subdivision seven of section four hundred one of this chapter.

28-c. Except where inconsistent with federal law, rules and regulations, every motor vehicle registered in this state and manufactured or assembled after June thirty, nineteen hundred sixty-seven and known as a nineteen hundred sixty-eight or subsequent

model shall be equipped with an air contaminant emission control system of a type approved by the state commissioner of environmental conservation. Such systems shall be maintained in good working order in continued conformity with emission standards promulgated by the state commissioner of environmental conservation. For the purposes of this subdivision, "air contaminant emission control systems" may include, but shall not be limited to, exhaust control systems and gasoline evaporation control systems but shall exclude crankcase ventilating systems.

28-d. The state commissioner of environmental conservation may exempt or partially exempt from the provisions of subdivisions twenty-eight-b and twenty-eight-c of this section any type or class of motor vehicle for which no practical control systems have been developed or are necessary.

28-e. Standards and exemptions established by the state commissioner of environmental conservation pursuant to subdivisions twenty-eight-b, twenty-eight-c and twenty-eight-d of this section, shall be consistent with applicable federal laws and regulations.

28-f. (a) Except where inconsistent with federal law, rules and regulations, in addition to any air contaminant emission control systems required by subdivisions twenty-eight-b and twenty-eight-c of this section, the commissioner of environmental conservation may by regulation require the installation of exhaust emission control devices in proper working condition on all or any vehicles of any class or classes of gasoline powered motor vehicle having a registered maximum gross weight in excess of six thousand pounds. The commissioner of environmental conservation shall not promulgate any such regulation unless he (i) has determined, with the concurrence of the commissioner, that any such device is, or devices are, effective and reliable, (ii) has determined that the installation of any such device on all or any vehicles of such class or classes is necessary to the achievement of federal ambient air quality standards pursuant to an approved air quality implementation plan adopted pursuant to the federal clean air act, as amended (42 U.S.C. 1857 et seq.) and (iii) has determined that

the effect of such regulation will not be diluted by the absence of a comparable requirement in an adjoining state; provided, however, that the effective date of the requirements of such regulation shall not be prior to the approval or promulgation of a transportation control plan pursuant to the Federal clean air act as amended for those portions of adjoining states designated as the territorial areas forming parts of the New Jersey-New York-Connecticut Interstate Air Quality Control Region under such act and not prior to the effective date of comparable requirements for such vehicles registered in, required to be registered in, or operated in any such portions. Any such requirement shall take effect with respect to any such motor vehicle as of the date of issuance of a registration for such vehicle in the year next succeeding the date on which the regulation requiring the installation of such a device is promulgated by the commissioner of environmental conservation, but in no event prior to March first, nineteen hundred seventy-six.

(b) The provisions of paragraph (a) of this subdivision shall apply only to gasoline powered vehicles which are registered in or are required by law to be registered pursuant to subdivision seven of section four hundred one of this chapter in, or are regularly operated in that portion of the state designated as the territorial area forming part of the New Jersey-New York-Connecticut Interstate Air Quality-Control Region under the federal clean air act, as amended (42 U.S.C. 1857 et seq.) or any part of such region.

(c) Whenever a motor vehicle registered pursuant to subdivision seven of section four hundred one of this chapter is not required by a regulation promulgated pursuant to this subdivision, to have an exhaust emission control device installed in accordance with this subdivision, the applicant for registration for any such motor vehicle shall be required to file a statement as prescribed by the commissioner in conjunction with such registration that such motor vehicle is not required to have such a device. A false statement in relation to such exemption shall constitute a material false statement in an application for registration.

(d) A notation on the registration for a vehicle and an identifying sticker on the vehicle, both of which indicate that such vehicle is required to have an exhaust emission control device shall be presumptive evidence that such device in proper working condition is required on

that vehicle pursuant to paragraph (a) of this subdivision.

(e) The rules and regulations promulgated pursuant to paragraph (a) of this subdivision shall contain provisions necessary or appropriate to implement this subdivision, including the definition of terms and exemptions for motor vehicles registered in areas from which no substantial numbers of motor vehicles are regularly operated in the portion of the state referred to in paragraph (b) of this subdivision.

(f) No registered owner shall permit a motor vehicle, required to have an exhaust emission control device in proper working condition pursuant to the provisions of this subdivision, to be operated in the portion of the state to which this subdivision is applicable, unless such vehicle is equipped with an approved exhaust emission control device in proper working condition. Every person convicted of a violation of this paragraph shall for a first violation thereof with respect to a particular motor vehicle be punished by a fine of seven hundred fifty dollars. Such fine may not be waived, suspended or in any other manner not levied, except that four hundred fifty dollars of such fine may be waived upon presentation of acceptable evidence prior to the final determination of the violation that the device required pursuant to paragraph (a) of this subdivision has been installed on the vehicle and is in proper working condition. Every person convicted of a second or subsequent violation with respect to a particular vehicle shall be punished by a fine of seven hundred fifty dollars, which fine may not be waived, suspended or in any other manner not levied.

29. (a) A motor vehicle shall not be used to tow more than one other vehicle.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the following vehicles or combination of vehicles are permitted to be operated in New York state:

1. Municipal garbage or ash collecting systems consisting of three vehicles;

2. A tow truck or wrecker being used to tow a disabled tractor semitrailer combination;

3. A tractor being used to tow a semitrailer and trailer outside the city of New York or counties of Nassau and Suffolk or on any qualifying highway or access highway within the city of New York or counties of Nassau or Suffolk;

3-a. A tractor semitrailer-semitrailer combination of vehicles where the two semitrailers are connected by a B-train assembly and such combinations of vehicles is operated outside the city of New York or counties of Nassau and Suffolk or on any qualifying highway or access highway within the city of New York or counties of Nassau or Suffolk;

4. Subject to rules and regulations of the commissioner of transportation, a combination of an automotive powered cab and truck chassis being used to tow two such additional vehicles in double saddle-mount fashion, each mounted upon a device designed and constructed so as to be readily dismountable and which performs the function of a conventional fifth wheel, so that while all the wheels of the towing powered chassis touch the roadway, only the wheels on the rear axle of each of the towed vehicles are in contact with the roadway; and

5. Subject to rules and regulations of the commissioner of transportation, a combination of an automotive powered cab and truck chassis being used to tow three such additional vehicles in triple saddle-mount fashion on a qualifying or access highway, each mounted upon a device designed and constructed so as to be readily dismountable and which performs the function of a conventional fifth wheel, so that while all the wheels of the towing powered chassis touch the roadway, only the wheels on the rear axle of each of the towed vehicles are in contact with the roadway.

(c) No vehicle shall be towed by a rope or other non-rigid connection which is longer than sixteen feet.

(d) A motor vehicle being towed by a rope or other non-rigid connection must have a licensed driver in such motor vehicle who shall steer it when it is being towed.

29-a. No vehicle or mobile equipment shall be towed with the use of a

dolly unless the dolly, vehicle or mobile equipment is secured to the towing vehicle by safety chains or cables which will prevent the dolly, vehicle or mobile equipment from separating from the towing vehicle and the towed vehicle or mobile equipment is securely fastened to the dolly. Dolly shall mean a multi-wheel device utilized to raise a part of a towed vehicle or mobile equipment while it is being towed by another vehicle.

30. It shall be unlawful for any person to operate a motor vehicle with any object placed or hung in or upon the vehicle, except required or permitted equipment of the vehicle, in such a manner as to obstruct or interfere with the view of the operator through the windshield, or to prevent him from having a clear and full view of the road and condition of traffic behind such vehicle. Notwithstanding any other provision of law, a summons for operating a motor vehicle in violation of this subdivision shall only be issued when there is reasonable cause to believe that the person operating such motor vehicle has committed a violation of the laws of this state other than a violation of this subdivision.

31. Mufflers and exhaust systems. Prevention of noise. (a) Every motor vehicle, operated or driven upon the highways of the state, shall at all times be equipped with an adequate muffler and exhaust system in constant operation and properly maintained to prevent any excessive or unusual noise and no such muffler or exhaust system shall be equipped with a cut-out, bypass, or similar device. No person shall modify the muffler or exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor or exhaust system of such vehicle above that emitted by the muffler or exhaust system originally installed on the vehicle and such original muffler and exhaust system shall comply with all the requirements of this section.

(b) No person shall, in the state, sell, offer for sale or install any of the following for the muffler or exhaust system of a motor vehicle: a cut-out, bypass, or a similar device which will amplify or increase the noise emitted by the motor or exhaust system of such vehicle above that emitted by the muffler or exhaust system originally installed on the vehicle.

A muffler is a device consisting of a series of chambers or baffle plates, or other mechanical design for the purpose of receiving exhaust gas from an internal combustion engine, and effective in reducing noise.

An exhaust system is a series of mechanical devices for the purpose of receiving exhaust gas from an internal combustion engine and expelling it into the atmosphere.

31-a. No person shall, in the state, sell, offer for sale or install a motorcycle exhaust device without internal baffles, known as "straight pipes".

31-b. No person shall, in the state, sell, offer for sale or install a motorcycle exhaust device that is intentionally designed to allow for the internal baffling to be fully or partially removed or interchangeable or that has been modified in a manner that will amplify or increase the noise emitted by the motor of a motorcycle above that emitted by the exhaust system originally installed on such motorcycle. This subdivision shall not apply to a motorcycle manufactured or assembled prior to nineteen hundred seventy-nine or a motorcycle registered as a limited use vehicle or an all terrain vehicle pursuant to article forty-eight-A or forty-eight-B of this chapter.

32. (a) The violation of any of the provisions of this section with respect to adequate brakes except those relating to emergency or hand brakes shall constitute a misdemeanor and the violation of any of the other provisions of this section, including those relating to emergency or hand brakes, shall be punishable by a fine not exceeding one hundred fifty dollars or by imprisonment for not exceeding thirty days, or by both such fine and imprisonment, except as herein otherwise provided.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, a violation of paragraph (b) of subdivision thirty-one, subdivision thirty-one-a or subdivision thirty-one-b of this section shall be punishable by a fine not exceeding one thousand dollars or by imprisonment for not exceeding thirty days, or by both such fine and imprisonment.

33. The provisions of this section shall not apply to fire and police vehicles, self-propelled combines, self-propelled corn and hay harvesting machines, farm type tractors used exclusively for agricultural purposes or for snow plowing other than for hire, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site except when reference is specifically made to such vehicle.

34. Any motor vehicle may be equipped with and every passenger vehicle registered in this state and manufactured or assembled after January first, nineteen hundred sixty-nine, shall be equipped with at least one back-up light. Such light shall display a white light to the rear when the ignition switch is energized and reverse gear is engaged. Such light shall not be lighted when the motor vehicle is in forward motion.

35. Tires. (a) The commissioner may establish standards for the manufacture, regrooving or retreading of tires which are produced or sold in this state, and for the use of tires on vehicles operated in this state.

(b) No tire shall be manufactured, distributed, offered for sale or sold in this state if it does not comply with the standards established by the commissioner pursuant to paragraph (a) of this subdivision. A violation of this paragraph shall be punishable as a misdemeanor.

(c) No person shall operate a motor vehicle or a trailer on a public highway if such vehicle is equipped with tires that do not meet the standards established by the commissioner pursuant to paragraph (a) of this subdivision.

35-a. It shall be unlawful to operate a motor vehicle or trailer equipped with tires having metal objects protruding from the tire tread upon any public highway. The prohibition contained in this section shall not apply to pneumatic tires containing metal type studs, the diameter of which studs inclusive of the stud casing does not exceed three-eighths of an inch and which do not protrude beyond the tread surface of such tires more than three thirty-seconds of an inch and the contact area of which does not exceed three-fourths of one per cent of

the total nominal contact area of said tires determined by multiplying the circumference of the outer most edge of tread times the tread width, except that no vehicle equipped with such tires, other than school buses and state or municipally-owned vehicles, may operate on a public highway during the period from the first day of May to the fifteenth day of October, inclusive.

36. (a) (i) The slow-moving vehicle emblem as developed by the American Society of Agricultural and Biological Engineers shall be recognized as the official state slow moving vehicle emblem. The commissioner of motor vehicles shall adopt standards and specifications for design, creation and use, in conformance with those recommendations of the American Society of Agricultural and Biological Engineers for the size, design and mounting of said slow-moving vehicle emblem.

(ii) The commissioner shall adopt standards and specifications for design, creation and use, in conformance with those recommendations of the American Society of Agricultural and Biological Engineers standard which meets the criteria of the American National Standards Institute/American Society for Testing and Materials S584 for the size, design and mounting of a speed identification symbol. A speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery, implement of husbandry and other machinery including road construction and maintenance machinery to which it is mounted is designed by its manufacturer to operate.

(b) (i) Farm machinery and implements of husbandry and other machinery including road construction and maintenance machinery designed to operate at twenty-five miles per hour or less, traveling on a public highway during day or night, whether self-propelled or used in combination, shall each separately display a slow-moving vehicle emblem as specified in paragraph (a) of this subdivision.

(ii) (A) Farm machinery and implements of husbandry and other machinery including road construction and maintenance machinery designed to operate at a speed greater than twenty-five miles per hour but less than forty miles per hour, traveling on a public highway during day or night, whether self-propelled or used in combination, shall each separately display a slow-moving vehicle emblem and a speed identification symbol as specified in paragraph (a) of this subdivision.

(B) If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour but not greater than forty miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour but less than forty miles per hour and is towing, pulling, or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow-moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

(C) When an agricultural tractor is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour but less than forty miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.

(c) The use of such emblem and symbol shall be in addition to any lighting devices, flags or other equipment required by law. Such emblem and symbol shall be used only on farm machinery and implements of husbandry on road construction and maintenance machinery, and on such other vehicles, machinery and equipment as may be specified in regulations issued by the commissioner. All use shall be in accordance with such regulations. Use of such emblem as a clearance marker or on stationary objects on the highways is prohibited.

37. The commissioner shall promulgate rules and regulations prescribing appropriate cautionary devices to be affixed to motor vehicles engaged in retail sales of frozen desserts directly to consumers which shall include, but not be limited to, front crossing arms to be activated only when such vehicle is stopped and its occupants are engaged in such retail sales. Such rules and regulations shall be designed to warn oncoming vehicles of the likelihood of pedestrians in or about the vicinity of such sales oriented motor vehicles. No person shall engage in the retail sale by motor vehicle of frozen desserts directly to consumers in violation of the rules and regulations promulgated by the commissioner. As used in this subdivision, "frozen desserts" shall mean ice cream, frozen custard, French ice cream, French

custard ice cream, artificially sweetened ice cream, ice milk, artificially sweetened ice milk, fruit sherbet, non-fruit sherbet, water ices, non-fruit water ices, quiescently frozen confection, quiescently frozen dairy confection, manufactured desserts mix, frozen confection, mellorine frozen dessert, parevine, frozen yogurt, freezer made shakes, freezer made milk shakes, lo-mel, and dietary frozen dessert as all such products are commonly known, together with any mix used in such frozen desserts and any products which are similar in appearance, odor or taste to such products, or are prepared or frozen as frozen desserts are customarily prepared or frozen, whether made with dairy products or non-dairy products.

39. Every motor vehicle registered in this state and manufactured or assembled after October first, nineteen hundred sixty-four shall be equipped with a defrosting device, in good working order, for the purpose of preventing the formation of snow or ice on the windshield directly in front of the operator. For the purposes of this subdivision the term "motor vehicle" shall exclude motorcycles, tractors used exclusively for agricultural purposes, self-propelled combines, self-propelled harvesting machines and farm equipment and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

40. Stop lamps. (a) Every motor vehicle, except a motorcycle, operated or driven upon the public highways of the state, if manufactured prior to January first, nineteen hundred fifty-two, shall be equipped with at least one stop lamp which shall display a red to amber light visible at least five hundred feet from the rear of the vehicle when the brake of such vehicle is applied.

(b) Every motor vehicle, except a motorcycle, operated or driven upon the public highways of the state, if manufactured on or after January first, nineteen hundred fifty-two, shall be equipped with at least two stop lamps, one on each side, each of which shall display a red to amber light visible at least five hundred feet from the rear of the vehicle when the brake of such vehicle is applied.

41. Colored and flashing lights. The provisions of this subdivision

shall govern the affixing and display of lights on vehicles, other than those lights required by law. 1. No light, other than a white light, and no revolving, rotating, flashing, oscillating or constantly moving white light shall be affixed to, or displayed on any vehicle except as prescribed herein.

2. Red lights and certain white lights. One or more red or combination red and white lights, or one white light which must be a revolving, rotating, flashing, oscillating or constantly moving light, may be affixed to an authorized emergency vehicle, and such lights may be displayed on an authorized emergency vehicle when such vehicle is engaged in an emergency operation, and upon a fire vehicle while returning from an alarm of fire or other emergency.

3. Amber lights. a. One or more amber lights may be affixed to a hazard vehicle, and such a light or lights which display an amber light visible to all approaching traffic under normal atmospheric conditions from a distance of five hundred feet from such vehicle shall be displayed on a hazard vehicle when such vehicle is engaged in a hazardous operation. Such light or lights shall not be required to be displayed during daylight hours provided at least two red flags visible from a distance of five hundred feet are placed both in or on the front of, and to or on the rear of the vehicle and two such flags are placed to each side of the vehicle open to traffic. Such lights or flags need not be displayed on the vehicle when the vehicle is operating, or parked, within a barricaded work area and said lights or flags are displayed on the barricade. The provisions of this subdivision shall not prohibit the temporary affixing and display of an amber light to be used as a warning on a disabled motor vehicle or on a motor vehicle while it is stopped on a highway while engaged in an operation which would restrict, impede or interfere with the normal flow of traffic.

b. In any city in this state having a population of one million or more, one amber light may be affixed to any motor vehicle owned or operated by a volunteer member of a civilian or crime patrol provided such volunteer civilian or crime patrol member has been authorized in writing to so affix an amber light by the police commissioner of the

municipality in which he patrols, which authorization shall be subject to revocation at any time by the police commissioner who issued the same or his successor in office. Such amber light may be operated by such volunteer civilian or crime patrol member in such a vehicle only when engaged in a patrol operation as defined and authorized by rules and regulations promulgated by the police commissioner and only in such a manner and at such times as may be authorized by the police commissioner pursuant to said rules and regulations.

4. Blue light. a. One blue light may be affixed to any motor vehicle owned by a volunteer member of a fire department or on a motor vehicle owned by a member of such person's family residing in the same household or by a business enterprise in which such person has a proprietary interest or by which he or she is employed, provided such volunteer firefighter has been authorized in writing to so affix a blue light by the chief of the fire department or company of which he or she is a member, which authorization shall be subject to revocation at any time by the chief who issued the same or his or her successor in office. Such blue light may be displayed exclusively by such volunteer firefighter on such a vehicle only when engaged in an emergency operation. The use of blue lights on vehicles shall be restricted for use only by a volunteer firefighter except as otherwise provided for in subparagraphs b and b-1 of this paragraph.

b. In addition to the red and white lights authorized to be displayed pursuant to paragraph two of this subdivision, one or more blue lights or combination blue and red lights or combination blue, red and white lights may be affixed to a police vehicle, fire vehicle, ambulance, emergency ambulance service vehicle, and county emergency medical services vehicle provided that such blue light or lights shall be displayed on a police vehicle, fire vehicle, ambulance, emergency ambulance service vehicle, and county emergency medical services vehicle for rear projection only. In the event that the trunk or rear gate of a police vehicle, fire vehicle, ambulance, emergency ambulance service vehicle, and county emergency medical services vehicle obstructs or diminishes the visibility of other emergency lighting on such vehicles, a blue light may be affixed to and displayed from the trunk, rear gate

or interior of such vehicles. Such lights may be displayed on a police vehicle, fire vehicle, ambulance, emergency ambulance service vehicle, and county emergency medical services vehicle when such vehicles are engaged in an emergency operation. Nothing contained in this subparagraph shall be deemed to authorize the use of blue lights on police vehicles, fire vehicles, ambulances, emergency ambulance service vehicles, and county emergency medical services vehicles unless such vehicles also display one or more red or combination red and white lights as otherwise authorized in this subdivision.

b-1. In addition to the amber light authorized to be displayed pursuant to paragraph three of this subdivision, one or more blue lights or combination blue and amber lights may be affixed to a hazard vehicle designed for the towing or pushing of disabled vehicles provided that such blue light or lights shall be displayed on such a hazard vehicle for rear projection only. Such blue light or lights may be displayed on a hazard vehicle designed for the towing or pushing of disabled vehicles when such vehicle is engaged in a hazardous operation and is also displaying the amber light or lights required to be displayed during a hazardous operation pursuant to paragraph three of this subdivision. Nothing contained in this subparagraph shall be deemed to authorize the use of blue lights on hazard vehicles designed for the towing or pushing of disabled vehicles unless such hazard vehicles also display one or more amber lights as otherwise authorized in this subdivision.

c. The commissioner is authorized to promulgate rules and regulations relating to the use, placement, power and display of blue lights on a police vehicle, fire vehicle, and hazard vehicle designed for the towing or pushing of disabled vehicles.

5. Green light. (a) One green light may be affixed to any motor vehicle owned by a member of a volunteer ambulance service or by a member of a mobile crisis team, or on a motor vehicle owned by a member of such person's family, or by a business enterprise in which such person has a proprietary interest or by which he is employed, provided such member of a volunteer ambulance service has been authorized in writing to so affix a green light by the chief officer of such service

as designated by the members thereof, or provided such member of a mobile crisis team has been authorized in writing to so affix a green light by the mobile crisis team's director or similar role, provided further that such director or similar role or their successor may revoke such authorization at any time. Such green light may be displayed exclusively by such member of a volunteer ambulance service, or a member of a deployed mobile crisis team, only when engaged in an emergency operation. The use of green lights on vehicles shall be restricted for use only by a member of a volunteer ambulance service or a member of a mobile crisis team as provided for in this paragraph except as otherwise provided for in subparagraph (c) of this paragraph.

(b) As used in this paragraph the following terms shall have the following meanings:

(i) "volunteer ambulance service" means: (A) a non-profit membership corporation (other than a fire corporation) incorporated under or subject to the provisions of the membership corporations law, or any other law, operating its ambulance or ambulances on a non-profit basis for the convenience of the members thereof and their families or of the community or under a contract with a county, city, town or village pursuant to section one hundred twenty-two-b of the general municipal law; or

(B) an unincorporated association of persons operating its ambulance or ambulances on a non-profit basis for the convenience of the members and their families or of the community; and

(ii) "mobile crisis team" shall have the same meaning as mobile crisis teams as defined by paragraph eleven of subdivision (a) of section 36.03 of the mental hygiene law.

(c)(i) In addition to the amber light authorized to be displayed pursuant to paragraph three of this subdivision, one or more green lights or combination green and amber lights may be affixed to a hazard vehicle designed for ice and snow removal owned and operated by the state or by a county, city, town or village. Such green light or lights may be displayed on a hazard vehicle designed for ice and snow removal owned and operated by the state or by a county, city, town or village when such vehicle is engaged in a hazardous operation and is also displaying the amber light or lights required to be displayed during a hazardous operation pursuant to paragraph three of this subdivision.

Nothing contained in this subparagraph shall be deemed to authorize the use of green lights on hazard vehicles designed for ice and snow removal owned and operated by the state or by a county, city, town or village unless such hazard vehicles also display one or more amber lights as otherwise authorized in this subdivision.

(ii) The commissioner is authorized to promulgate rules and regulations relating to the use, placement, power and display of green lights on a hazard vehicle designed for ice and snow removal owned and operated by the state or by a county, city, town or village.

6. The commissioner is authorized to promulgate regulations with respect to the affixing and display of colored lights and to promulgate specifications with respect to such lights.

7. The provisions of this subdivision forty-one shall not be applicable to vehicles from other states or from the Dominion of Canada which have entered this state to render police, fire or civil defense aid, or ambulance service, while such vehicles are here or are returning to their home stations if the lights on such vehicles comply with the laws of their home states or the Dominion of Canada and are displayed in this state in the same manner permitted by their home states or the Dominion of Canada, nor shall the provisions of this subdivision forty-one be deemed to amend, supersede or in any manner affect the provisions of the New York state defense emergency act as now in force or as it may be amended from time to time.

8. The provisions of this subdivision shall not be applicable to the driver of a vehicle from another state or foreign jurisdiction which vehicle has colored lights affixed but not revolving, rotating, flashing, oscillating or constantly moving if the lights on such vehicle comply with the laws of the state or home foreign jurisdiction in which the vehicle is registered.

42. Every motor vehicle registered in this state which is manufactured or assembled on or after September first, nineteen hundred eighty and operated or driven upon the highways of the state shall be equipped with a speedometer device which is capable of measuring the speed of such

vehicle and displaying the same in miles per hour.

43. No dealer shall sell a motor vehicle or a trailer which is to be registered in this state unless such motor vehicle or trailer has all the equipment required for operation on the public highways of this state.

44. Driver education vehicles. Any motor vehicle used for the purpose of driving instruction for hire or for driver education by a school and being operated by a person receiving such instruction or education shall bear identification, visible to both oncoming and following traffic, to indicate that the vehicle is being driven by a student driver. The commissioner may establish standards for such identification.

45. Hydrocarbon gas powered vehicles. It shall be unlawful to operate upon any public highway or street in this state a motor vehicle that uses hydrocarbon gas as its primary or secondary fuel supply, unless the motor vehicle conspicuously displays a reflective placard designed to alert emergency personnel to the extraordinary hazards which may arise from proximity with this fuel. The commissioner shall, in cooperation with the state fire administrator, establish regulations as to the location and design of this warning placard.

46. Tamper-resistant odometers or speedometers. It shall be unlawful after July first, nineteen hundred ninety-one for any person, firm, association or corporation to sell or offer for sale in this state a new motor vehicle which is to be registered in this state and which was manufactured or assembled on or after such date, and designed as a nineteen hundred ninety-two or later model, unless such vehicle is equipped with a tamper-resistant odometer or speedometer designed with the intent to reduce the likelihood of unlawful tampering with the mileage reading thereon.

The commissioner shall promulgate such rules and regulations relative to tamper-resistant odometers and speedometers on motor vehicles and the approval of the same as are not inconsistent with the provisions of federal law, if any, relating thereto. Such rules shall, at a minimum,

require odometers and speedometers which indicate mileage with a minimum of six digits exclusive of digits indicating fractions of a mile. This section shall not apply to motorcycles.

47. (a) It shall be unlawful for any person to operate or cause to be operated, an audio amplification system which is operated in, installed in or powered by a vehicle which generates an A-weighted sound level in excess of seventy dB (A) measured at, or adjusted to, a distance of twenty-five feet from the vehicle which is driven, standing, or parked on a public highway, or within one hundred feet of a public highway unless that system is being operated to request assistance or warn of a hazardous situation. This section shall not apply to authorized emergency vehicles or vehicles operated by gas, electric, communications or water utilities. This section shall not apply to the sound systems of vehicles used for advertising, or in parades, political or other special events, except that the use of sound systems on those motor vehicles may be prohibited by a local authority by ordinance or local law.

(b) Any person convicted of a violation of this section shall for a first conviction thereof be punished by a fine of up to one hundred fifty dollars; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be guilty of a traffic infraction and shall be punished by a fine of not less than one hundred fifty dollars and not more than three hundred dollars; upon conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be guilty of a traffic infraction and shall be punished by a fine of not less than three hundred seventy-five dollars and not more than seven hundred fifty dollars.

48. Bumpers or similar devices. (a) For the purposes of this subdivision, the following terms shall have the following meanings:

(i) Bumper. A system, the primary function of which is to provide protection against damage affecting front or rear external lamps, body parts and vehicle occupants during low speed impacts.

(ii) Passenger car. A motor vehicle whose body style is a sedan, hardtop, coupe, convertible, station wagon or hatchback but not a van, minivan, multipurpose passenger vehicle, truck, tractor, motorcycle or

bus.

(b) No person shall operate a passenger car registered in New York unless it is equipped with both a front and rear bumper, each securely fastened and with some part of the bumper located between sixteen inches and twenty inches above the ground. This provision shall not apply to a vehicle registered as an historical vehicle.

(c) Except insofar as paragraph (b) of this subdivision shall apply, no person shall operate a motor vehicle designated as a nineteen hundred ninety or newer model year vehicle, which is registered in this state, except a motorcycle or special purpose commercial vehicle registered under schedule F of subdivision seven of section four hundred one of this chapter, which is so constructed that the body has a clearance at the front end of more than thirty inches from the ground when empty, unless the front end of the vehicle is equipped with bumpers or devices serving similar purposes which shall be so constructed and located that (i) some part of the bumpers or devices must be at least sixteen but not more than thirty inches above the ground with the vehicle empty; (ii) the maximum distance between the closest points between bumpers or devices, if more than one is used, shall not exceed twenty-four inches; (iii) the maximum transverse distance from the widest part of the motor vehicle at the front to the bumper or device shall not exceed eighteen inches; and (iv) the bumpers or devices shall be substantially constructed and firmly attached. A motor vehicle constructed and maintained so that the body, chassis, or other parts of the vehicle afford the front end protection contemplated shall be deemed to be in compliance with this section.

(d) Except insofar as paragraph (b) of this subdivision shall apply, no person shall operate a motor vehicle or a combination of vehicles, designated as a nineteen hundred ninety or newer model year vehicle, except a tractor, pole trailer, vehicle engaged in saddle-mount operation, motorcycle or special purpose commercial vehicle registered under schedule F of subdivision seven of section four hundred one of this chapter, if the motor vehicle is registered in this state, and which is so constructed that the body, or the chassis assembly without the body, has a clearance at the rear end of more than thirty inches from the ground when empty, unless the rear end of the vehicle or combination of vehicles is equipped with bumpers or devices serving

similar purposes which shall be so constructed and located that: (i) some part of the bumpers or devices must be at least sixteen but not more than thirty inches above the ground with the vehicle empty; (ii) the maximum distance between the closest points between bumpers, or devices, if more than one is used, shall not exceed twenty-four inches; (iii) the maximum transverse distance from the widest part of the motor vehicle at the rear to the bumper or device shall not exceed eighteen inches; (iv) the bumpers or devices shall be located not more than twenty-four inches forward of the extreme rear of the vehicle; and (v) the bumpers or devices shall be substantially constructed and firmly attached. Motor vehicles constructed and maintained so that the body, chassis, or other parts of the vehicle afford the rear end protection contemplated shall be deemed to be in compliance with this section.

49. Truck warning lights. (a) Every truck registered in this state and manufactured or assembled after September first, nineteen hundred ninety-two, which has a bed capable of being tilted or lifted by controls that are located within the cab of such truck and which is operated upon any public highway or street in this state shall be equipped with a warning light in its cab that is activated whenever the bed of the truck is elevated.

(b) Every tractor registered in this state and manufactured or assembled after September first, nineteen hundred ninety-three, which is used primarily for the towing of a trailer capable of being tilted or lifted and which is operated upon any public highway or street in this state shall be equipped with a warning light in its cab that is activated whenever the trailer is elevated.

50. Taxicab partitions and shields. Every taxicab registered in this state and registered or licensed by a city, town or village of seventy-five thousand persons or more pursuant to section one hundred eighty-one of the general municipal law shall be equipped with (a) partitions or shields made of plexiglass or other shatterproof material located between and effectively separating the front and rear seats, and (b) amber colored distress lights, mounted on and clearly visible to passersby from the front and rear of the taxicab; provided, however, that the requirements of this subdivision shall not apply to taxicabs

registered or licensed by such city, town or village which elects not to be subjected to the requirements of this subdivision pursuant to a duly enacted or adopted local law, ordinance or regulation. Nothing contained herein shall be construed to restrict the power of a city, town or village which elects not to be subject to the requirements of this subdivision to adopt or enforce a local law, ordinance or regulation regarding the use of taxicab partitions and distress lights.

* 51. Taxicab, livery and stretch limousine notices. (a) Every taxicab, livery, and altered motor vehicle commonly referred to as a "stretch limousine" which was altered on or after January first, two thousand twenty-one or retrofitted pursuant to subdivision one-a of section three hundred eighty-three of this article registered in this state shall have posted therein the following notice: "Seatbelts must be available for your use. You must buckle up, it's the law."

(b) The notices required to be posted pursuant to paragraph (a) of this subdivision shall be posted in a manner legible and conspicuous to passengers in all seating positions of such vehicles. Provided, however, that in addition to the requirements of this paragraph, such notices posted within taxis and liveries subject to registration and licensing by cities having a population of one million or more shall also be provided in the top two designated citywide languages as such term is defined in section 23-1101 of the administrative code of the city of New York.

* NB Repealed upon notification that any federal agency determines in writing that chapter 10 of 2020 would render New York state ineligible for the receipt of federal funds or any court of competent jurisdiction finally determines that said chapter would render New York state out of compliance with federal law or regulation (see chapter 10 of 2020 § 6)

* 51. Taxicab and livery notices. (a) Every taxicab and livery registered in this state shall have posted therein the following notice: "Seatbelts must be available for your use. Please buckle up."

(b) The notices required to be posted pursuant to paragraph (a) of this subdivision shall be posted in a manner legible and conspicuous to passengers in all seating positions of such vehicles.

* NB Effective upon repeal (see chapter 10 of 2020 § 6)

52. No police vehicle owned by the state, a public authority, a

county, town, city or village shall be sold unless, prior to such sale, such vehicle is decommissioned and any distinctive markings and affixed lights which would designate it in the public's view as such a police vehicle have been removed. The commissioner of the division of criminal justice services, in consultation with the commissioner, shall promulgate rules and regulations determining the specifications for decommissioning police vehicles and for the removal of such distinctive markings and affixed lights prior to sale.

53. Federal motor vehicle safety standard certification label. No person shall, with intent to defraud, knowingly remove, deface, destroy, cover, alter, or otherwise change the form or appearance of a federal motor vehicle safety standard certification label, issued in accordance with section 30115 of title 49 of the United States Code and part 567 of title 49 of the code of federal regulations, on an altered motor vehicle. No person shall, with intent to defraud, affix to an altered motor vehicle a federal motor vehicle safety standard certification label except in accordance with section 30115 of title 49 of the United States Code and part 567 of title 49 of the code of federal regulations. A violation of this subdivision shall be punishable as a misdemeanor.

* 54. Stretch limousine and charter bus commercial GPS. (a) Every stretch limousine and charter bus registered in this state shall be equipped with commercial global positioning system (GPS) technology within no later than one year of the date upon which the national highway traffic safety administration promulgates final regulations establishing standards for commercial GPS.

(b) It shall be unlawful to operate or cause to be operated a stretch limousine or charter bus registered in this state on any public highway or private road open to public motor vehicle traffic unless such stretch limousine or charter bus is equipped with commercial global positioning system (GPS) technology as required by this subdivision and such commercial global positioning system (GPS) technology is used. The presence in such stretch limousine or charter bus of commercial global positioning system (GPS) technology connected to a power source and in an operable condition is presumptive evidence of its use by any person operating such stretch limousine or charter bus. Such presumption may be rebutted by any credible and reliable evidence which tends to show that

such commercial global positioning system (GPS) technology was not in use.

(c) For the purposes of this subdivision:

(i) "Stretch limousine" shall mean an altered motor vehicle having a seating capacity of nine or more passengers, including the driver, commonly referred to as a "stretch limousine" and which is used in the business of transporting passengers for compensation;

(ii) "Charter bus" shall mean a bus transporting passengers for compensation in a chartered party;

(iii) "Chartered party" shall mean a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge, have acquired exclusive use of a bus to travel together as a group to a specific destination or for a particular itinerary either agreed upon in advance or modified after having left the place of origin by such group; and

(iv) "Commercial global positioning system (GPS) technology" shall mean global positioning system (GPS) technology which has been specifically designed to assist in the navigation of commercial motor vehicles.

* NB Repealed upon notification that any federal agency determines in writing that chapter 11 of 2020 would render New York state ineligible for the receipt of federal funds or any court of competent jurisdiction finally determines that said chapter would render New York state out of compliance with federal law or regulation (see chapter 11 of 2020 § 3)

* 55. Stretch limousine roll-over protection devices and anti-intrusion bars. (a) Every stretch limousine registered in this state shall be equipped with roll-over protection devices and anti-intrusion bars within no later than one year of the date upon which the national highway traffic safety administration promulgates final regulations establishing standards for commercial roll-over protection devices and anti-intrusion bars.

(b) For the purposes of this subdivision "stretch limousine" shall mean an altered motor vehicle having a seating capacity of nine or more passengers, including the driver, commonly referred to as a "stretch limousine" and which is used in the business of transporting passengers for compensation.

* NB Repealed upon notification that any federal agency determines in

writing that Part K of chapter 58 of 2024 would render New York state ineligible for the receipt of federal funds or any court of competent jurisdiction finally determines that such Part K would render New York state out of compliance with federal law or regulation (see chapter 58 of 2024 Part K § 11)

* 56. Stretch limousine additional equipment requirements. (a) Every stretch limousine registered in this state shall be equipped with an accessible window break tool and an operational fire extinguisher, and the driver and passenger partition of every such stretch limousine shall be accessible to reach an emergency egress from such vehicle if other forms of egress such as a roof hatch are not available in such stretch limousine.

(b) For the purposes of this subdivision:

(i) "Stretch limousine" shall mean an altered motor vehicle having a seating capacity of nine or more passengers, including the driver, commonly referred to as a "stretch limousine" and which is used in the business of transporting passengers for compensation; and

(ii) "Window break tool" shall mean a tool that can be used to open the windows of a stretch limousine in the event of an emergency.

* NB Repealed upon notification that any federal agency determines in writing that Part K of chapter 58 of 2024 would render New York state ineligible for the receipt of federal funds or any court of competent jurisdiction finally determines that such Part K would render New York state out of compliance with federal law or regulation (see chapter 58 of 2024 Part K § 11)

57. Stretch limousine age and mileage parameters. (a) It shall be unlawful to operate or cause to be operated a stretch limousine registered in this state on any public highway or private road open to public motor vehicle traffic if the vehicle is more than ten years old or the cumulative mileage registered on the vehicle's odometer exceeds three hundred fifty thousand miles, whichever occurs first.

(b) For the purposes of this subdivision, "stretch limousine" shall mean an altered motor vehicle having a seating capacity of nine or more passengers, including the driver, commonly referred to as a "stretch limousine" and which is used in the business of transporting passengers for compensation.

(c)(i) A stretch limousine with an odometer reading that differs from the number of miles the stretch limousine has actually traveled or that has had a prior history involving the disconnection or malfunctioning of an odometer or which appears to the commissioner to have an inaccurate odometer reading based on prior inspection records, will be assigned an imputed mileage for each month from the last reliable odometer recording through the date of inspection, as provided in subparagraph (ii) of this paragraph. A motor carrier may seek review of the determination to assign imputed mileage as provided pursuant to article six of the transportation law and rules and regulations promulgated thereunder.

(ii) The imputed mileage shall be calculated by adding the mileage of the stretch limousine recorded at the two most recent stretch limousine inspections, including roadside inspections conducted by the commissioner of transportation or division of state police, whichever is more recent, and dividing that sum by twenty-four. The quotient is the imputed monthly mileage.

(iii) Unless otherwise provided by the commissioner of transportation, a stretch limousine may not be operated or caused to be operated to transport passengers for compensation or continue transporting passengers for compensation if a reliable baseline odometer reading cannot be ascertained.

(iv) A motor carrier or operator who knows or has reason to believe that the odometer reading of a limousine differs from the number of miles the stretch limousine has actually traveled shall disclose that status to the commissioner or the department of transportation immediately.

§ 375-a. Prohibition against retaliatory action. 1. Definitions. For purposes of this section:

(a) "Employee" means an individual who is a driver or operator of a motor vehicle which has a registered maximum gross weight of eighteen thousand pounds or more and performs services for and under the control and direction of an employer for wages or other remuneration.

(b) "Employer" means any registered owner of a motor vehicle which has a registered maximum gross weight of eighteen thousand pounds or more or any person, firm, partnership, institution, corporation, or association

that employs one or more employees as herein defined.

(c) "Retaliatory personnel action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

2. Prohibition. An employer shall not take any retaliatory personnel action against an employee because the employee objected to or refused to operate a motor vehicle which the employee reasonably believes fails to comply with the provisions of subdivision one, insofar as such subdivision concerns brakes and steering mechanism, paragraph (a) of subdivision two, paragraph a of subdivision ten, subdivision eighteen, eighteen-a, twenty-five, paragraph (c) of subdivision thirty-five, thirty-nine, forty or forty-two of section three hundred seventy-five, or section three hundred seventy-six or section three hundred eighty-a of this chapter relating to required equipment of such vehicle or its proper repair.

3. Application. The protection against any retaliatory personnel action found in subdivision two of this section shall apply only to an employee who has brought the above mentioned violations of sections three hundred seventy-five, three hundred seventy-six and/or three hundred eighty-a to the attention of his employer in writing and has afforded such employer a reasonable opportunity to correct such violation.

4. Violation; remedy. An employee who has been subjected to a retaliatory personnel action in violation of this section may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of section seven hundred forty of the labor law within one year after the alleged retaliatory personnel action was taken. The commissioner or his agent may deny a registration application of any other person for the same vehicle where he has reasonable grounds to believe that such registration will have the effect of defeating the purpose of this subdivision.

5. Existing rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any

collective bargaining agreement or employment contract.

§ 376. Lamps, signaling devices and reflectors on vehicles. 1. (a) It shall be unlawful to operate, drive or park a vehicle, except a motorcycle operated during the period from one-half hour before sunrise to one-half hour after sunset, on any public highway or street in this state at any time during the day or night unless such vehicle is equipped with signaling devices and reflectors of a type approved by the commissioner which are in good working condition; or to operate, drive or park a vehicle, except a motorcycle, on any public highway or street in this state, during the period from one-half hour after sunset to one-half hour before sunrise, unless such vehicle is equipped with lamps of a type approved by the commissioner which are lighted and in good working condition; or to operate, drive or park self-propelled agricultural equipment on any public highway or street in this state, during the period from one-half hour after sunset to one-half hour before sunrise and during such other times as visibility for a distance of one thousand feet ahead of or behind such agricultural equipment is not clear, unless such agricultural equipment is equipped with lamps of a type approved by the commissioner which are lighted and in good working condition.

(b) The commissioner of motor vehicles is hereby authorized and empowered to promulgate rules and regulations with respect to lamps, reflectors and signaling devices, their number, type, design, construction, location, attachment and use on vehicles being driven, operated or parked on any public highway or street in this state. In promulgating such rules and regulations the commissioner shall be guided by the requirements with regard to lights, reflectors, signaling devices and associated equipment on vehicles of rules and regulations promulgated by the United States department of transportation.

2. Wiring used on commercial vehicles shall be of such size that when all connections are made in an acceptable and workmanlike manner the loss in voltage will not be sufficient to cause a lamp to produce less than the minimum candlepower, under normal operating conditions, when the lamp is in good working order. All wiring should be enclosed in

weather proof and abrasion proof cable or conduit except wiring which is completely enclosed within the body of the vehicle.

3. All lights, signals and reflectors shall be of a type and design approved by the commissioner. No light having a candlepower rating in excess of thirty-two candle power shall be used on any vehicle, unless it is of a type approved by the commissioner. The provisions of section three hundred seventy-five of this chapter governing the approval of equipment and the adjustment of headlamps shall apply to the equipment and headlamps required by this section. The commissioner is hereby authorized and empowered to adopt and from time to time amend such regulations not inconsistent with this section, governing the size, type, construction, location, and use of lights, signals and reflectors, including the exemption of specific vehicles from the requirements of this section where the construction of such vehicles makes compliance herewith impracticable, or impossible.

4. All existing provisions of this chapter governing the use of headlamps, front parking lamps and license plate lamps and other lamps, reflectors, lights and directional signals on vehicles shall continue to apply, except to the extent irreconcilably inconsistent with the provisions of this section or regulations promulgated thereunder.

§ 376-a. Defective equipment. 1. If any vehicle is driven or operated on a public highway in violation of any provision of section three hundred seventy-five, three hundred seventy-six or three hundred eighty-one of this article relating to required equipment or its proper repair and adjustment, other than a provision relating to service brakes, any police officer shall be authorized to take such action as may be required or permitted by the provisions of this section.

2. If the vehicle is being operated or driven in violation of the provisions of this chapter relating to the use or proper repair or adjustment of headlamps, and there is not in operation at least one headlamp lighted and adjusted as required by law, such officer shall issue a summons for such violation and shall order the operator to

remove such vehicle from the highway. In such event, such vehicle shall not again be driven or operated until such time as the vehicle can be driven or operated without being in violation of such provisions.

3. If the vehicle is being driven or operated in violation of any provisions of section three hundred seventy-five, three hundred seventy-six or three hundred eighty-one of this article relating to required equipment, except a violation described in subdivision two of this section, subdivision forty-seven of section three hundred seventy-five of this article, and except a violation relating to service brakes, such officer shall issue a summons, provided, however, that a summons shall not be issued if, in the discretion and at the request of such officer, the defect is corrected in the presence of such officer. The refusal of a police officer to permit the repair of any defect in his presence shall not be reviewable, and shall not be a defense to any violation charged in a summons issued pursuant to the provisions of this subdivision.

4. Any complaint issued for any violation of section three hundred seventy-five, three hundred seventy-six or three hundred eighty-one of this article relative to required equipment, except a violation described in subdivision two of this section, subdivision forty-seven of section three hundred seventy-five of this article, and except for a violation relating to service brakes, shall be dismissed by the court before which the summons is returnable if the violation as set forth in the summons is corrected not later than one-half hour after sunset on the first full business day after the issuance of the summons and proof of such correction as set forth in subdivision five of this section is submitted to the court. For the purposes of this subdivision, "business day" shall mean any calendar day except Saturday and Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

5. (a) Acceptable proof of repair or adjustment shall consist of submission to the court on or before the return date of the summons either:

(i) a statement of correction from an officially designated state inspection station duly executed by the person performing or making such inspection and bearing the facility number of the state inspection station, or

(ii) a statement of correction from an automobile repair shop on the letterhead of such repair shop duly executed by the person who made the correction, or

(iii) a statement of correction from any registrant having more than twenty-five vehicles registered and having a fleet maintenance program administered by the registrant, duly executed by the person performing or making such correction and countersigned by the fleet maintenance supervisor, or

(iv) a signed statement of any police officer that the necessary corrections have been made, or

(v) evidence acceptable to the court from any person that he or she completed the repair together with proof of purchase of the equipment needed for the repair, or

(vi) in the discretion of the court, submission of the vehicle to the court for inspection not later than one-half hour after the next ensuing sunset.

(b) The statement required by this subdivision shall be directed to the court having jurisdiction of the alleged violation, shall be affirmed as true under penalty of perjury, and shall include:

(i) the name, occupation and position of the person making the statement;

(ii) the time and date that the repairs or inspection were made; and

(iii) a statement that the defective equipment, cited in the summons or information, on the vehicle in question, is in proper working order.

6. The provisions of this section shall not be construed to affect any cause of action or the rights or liabilities of any person with respect to damages or injuries caused or suffered as a result of the operation of a motor vehicle.

§ 377. Vehicles engaged in the transportation of logs and other materials. 1. No vehicle which is designed or used for the purpose of

hauling logs or other materials which by their very nature may shift or roll so as to be likely to fall from such vehicle, shall be operated or moved over any highway unless its load is securely fastened by such safety chains, cables or other suitable devices as will effectively prevent the shifting or falling of such load or any part thereof, from the vehicle.

2. The commissioner is authorized to make necessary rules and regulations to carry into effect the provisions of this section, applying such provisions to specific conditions and prescribing means, methods and practices to effectuate such provisions. Before any such rule or regulation is adopted, amended or repealed there shall be a public hearing thereon, notice of which shall be published at least once, not less than ten days prior thereto, in such newspaper as the commissioner may prescribe.

3. A violation of any of the provisions of this section or of any rule or regulation promulgated hereunder shall constitute a misdemeanor punishable by a fine of not more than one hundred dollars for a first offense, three hundred fifty dollars for a second offense, or seven hundred fifty dollars for each subsequent offense, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 378. Additional safety requirements for commercial vehicles and vehicles transporting hazardous materials. 1. Motor vehicles and trailers operated pursuant to or requiring a certificate or permit for the transportation of property or hazardous materials from the interstate commerce commission or the commissioner of transportation and all other motor vehicles and trailers operated for the commercial transportation of property or hazardous materials, in addition to being subject to the provisions of this chapter and regulations promulgated thereunder, are also subject to the provisions of section one hundred forty of the transportation law and safety rules and regulations promulgated thereunder.

2. Vehicles transporting hazardous materials, in addition to being

subject to the provisions of this chapter and regulations promulgated thereunder are also subject to the provisions of section fourteen-f of the transportation law and rules and regulations promulgated thereunder.

3. Whenever a vehicle is in violation of a provision of both the vehicle and traffic law and section fourteen-f or section one hundred forty of the transportation law or safety rules and regulations promulgated thereunder, if the offenses arise from the same incident and the elements of both offenses are substantially the same, the alleged violator shall be charged only with the appropriate offense of the transportation law.

§ 380-a. Certain vehicles engaged in the transportation of loose cargo. 1. It shall be unlawful to operate on any public highway any open truck or trailer being utilized for the transportation of any loose substances, unless said truck or trailer has a cover, tarpaulin or other device of a type and specification approved by the commissioner of transportation which completely closes in the opening on the said truck or trailer while said truck or trailer shall be so operated, so as to prevent the falling of any such substances therefrom. However, if the load is arranged so that no loose substance can fall from or blow out of such truck, the covering is not necessary.

2. The commissioner of transportation is authorized to make necessary rules and regulations to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods and practices to effectuate such provisions.

3. The provisions of this section shall not apply to motor vehicles, trailers and semitrailers conveying "farm products" as defined in section two of the agriculture and markets law.

§ 381. Motorcycle equipment. 1. (a) Every motorcycle, driven upon the public highways of this state, shall be provided with adequate brakes in good working order and sufficient to control such motorcycle at all

times, when the same is in use, a suitable and adequate bell, horn or other device for signaling, one red to amber stop lamp and shall, whenever such motorcycle is being operated upon the public highways of the state, display one lighted lamp in front and one on the rear, or, when such motorcycle is operated with a passenger or other truck attached to the side or front two such lamps on the front and one on the rear; and in all cases the lamps on a motorcycle shall include a red light visible from the rear. The rays of such rear lamp shall shine upon the number plate carried on the rear of such motorcycle in such manner as to render the numerals thereon visible for at least fifty feet in the direction from which the motorcycle is proceeding. The light of the front lamp or lamps shall be visible at least two hundred feet in the direction in which the motorcycle is proceeding. Every such motorcycle shall have a suitable muffler or device to prevent unnecessary noise from exhaust gases, and the use of so-called "cut-outs" is prohibited.

(b) Driving a motorcycle without the display of one lighted lamp in front and one on the rear, during a period other than from one-half hour after sunset to one-half hour before sunrise, shall not be deemed to constitute negligence or contributory negligence in any action or proceeding arising out of the operation of such motorcycle.

(c) The provisions of this subdivision relating to the display of one lighted lamp in front and one on the rear during a period other than from one-half hour after sunset to one-half hour before sunrise shall not apply to a motorcycle, driven at a speed of less than twenty miles per hour, owned by a municipality and used for the collection of parking fees or the enforcement of parking regulations.

1-a. Every motorcycle registered in this state and manufactured or assembled after January first, nineteen hundred seventy-one and designated as a nineteen hundred seventy-one or subsequent year model shall be equipped with brakes acting on the front as well as the rear wheel.

2. No head lamp shall be used upon any motorcycle operated upon the public highways of the state, unless such lamp is approved by the commissioner or is equipped with a lens or other device approved by the commissioner. Every such head lamp, lens or other device shall be

applied and adjusted in accordance with the requirements of the certificate approving the use thereof. Every such head lamp shall be firmly and substantially mounted on the motorcycle in such manner as to allow the lamp to be properly and readily adjusted. Each reflector which is used as a part of such head lamp shall have a polished silver or glass reflecting surface, or a reflecting surface which gives candle power intensity meeting the requirements of rules and regulations established by the commissioner, and shall be substantially free from dents, rust and other imperfections. The operator of every motorcycle shall permit any police officer or other person exercising police powers to inspect the equipment of such motorcycle and make such tests as may be necessary to determine whether the provisions of this section are being complied with. The commissioner may make reasonable rules and regulations relative to lights on motorcycles and the approval of the same which may be necessary to effectuate the foregoing provisions of this section.

2-a. It shall be unlawful for any person to operate on the public highways of the state any motorcycle manufactured or assembled after October first, nineteen hundred sixty-eight and designated as a nineteen hundred sixty-nine or subsequent year model unless such motorcycle is equipped with the lamps required by this section, which lamps shall be of a type, design and construction approved by the commissioner.

3. Except as hereinafter provided, only a white or yellow light shall be displayed upon a motorcycle so as to be visible from a point directly in front of the vehicle. Any color light, except blue, may be displayed, so as to be visible from a point directly in front of the vehicle, on a police vehicle or on a motorcycle operated by a sheriff or regular deputy sheriff when engaged in the performance of duty as a police officer. Any color light, including blue, may be displayed, so as to be visible from a point directly in front of the vehicle, on a motorcycle operated by a chief or assistant chief of a fire department, a county or deputy county fire coordinator, or a county or assistant county fire marshal. A blue light may be displayed upon a motorcycle, so as to be visible from a point directly in front of the vehicle, when operated by an active volunteer member of a fire department or company duly

authorized as hereinafter provided, and while such vehicle is in use for fire or other emergency service. No volunteer firefighter shall be permitted to display a blue light upon a motorcycle as hereinbefore provided except while actually enroute to the scene of a fire or other emergency requiring his or her services and unless he or she shall be an active volunteer member of a fire department or company and shall have been authorized in writing to so display a blue light by the chief of the fire department or company of which he or she is a member, which authorization shall be subject to revocation at any time by the chief who issued the same, or his or her successor in office.

4. Every motorcycle shall have at least one adequate red reflector securely attached to the rear. Such reflector may be a part of the rear lamp. No reflector shall be deemed adequate within the meaning of this subdivision unless it is of a size and type approved by the commissioner, and unless it is so designed, located and maintained as to be visible for at least two hundred feet when opposed by a motor vehicle displaying lawful undimmed headlights at night on an unlighted highway. The provisions of this subdivision with respect to reflectors shall be applicable, both day and night, whenever the motorcycle is on a public highway.

5. No person shall operate on a public highway a motorcycle on which the handle bars or grips are more than the height of the operator's shoulders.

6. It shall be unlawful for any person to operate or ride upon a motorcycle unless he wears a protective helmet of a type which meets the requirements set forth in section 571.218 of the federal motor vehicle safety standards as may from time to time be amended. The commissioner is hereby authorized and directed to adopt regulations for helmets which are consistent with the requirements as specified in section 571.218 of the federal motor vehicle safety standards as may from time to time be amended. The police authorities of a city, town or village may issue a permit exempting members of organizations sponsoring or conducting parades or other public exhibitions from the provisions of this subdivision while such members are participating in such parades or

other public exhibitions.

7. It shall be unlawful, on and after January first, nineteen hundred sixty-seven, for any person to operate a motorcycle unless he wears goggles or a face shield of a type approved by the commissioner. The commissioner is hereby authorized and empowered to adopt and amend regulations covering types of goggles and face shields and the specifications therefor and to establish and maintain a list of approved goggles and face shields which meet the specifications as established hereunder.

8. It shall be unlawful to operate on any public highway in this state any motorcycle registered in this state which is equipped with a wind screen, unless such wind screen meets the specifications established therefor by the commissioner. The commissioner is hereby authorized to adopt and amend regulations covering types of wind screens and specifications therefor.

9. It shall be unlawful to sell, offer for sale or distribute any goggles or face shields for use by the operators of motorcycles unless they are of a type and specification approved by the commissioner and appear on the list of approved devices maintained by the commissioner.

9-a. It shall be unlawful to sell, offer for sale or distribute any protective helmets for use by the operators or passengers of motorcycles unless they are consistent with the regulations of the commissioner as provided in subdivision six of this section and within the requirements specified in section 571.218 of the federal motor vehicle safety standards as may from time to time be amended.

10. It shall be unlawful after July first, nineteen hundred sixty-seven to operate on any public highway in this state any motorcycle registered in this state, unless such motorcycle is equipped with a rear view mirror which shall be adjusted so that the operator of such motorcycle shall have a clear view of the road and condition of traffic behind such motorcycle.

11. No person shall operate a motorcycle on any highway which is: (1) not equipped with a muffler to prevent excessive or unusual noise; (2) equipped with a muffler from which the baffle plates, screens or other original internal parts have been removed or altered; (3) equipped with an exhaust device without internal baffles, known as "straight pipes"; or (4) equipped with an exhaust system that has been modified in a manner that will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the exhaust system originally installed on the vehicle.

12. No person shall operate a motorcycle on any highway which is equipped with an exhaust device that is intentionally designed to allow for the internal baffling to be fully or partially removed or interchangeable. This subdivision shall not apply to a motorcycle manufactured or assembled prior to nineteen hundred seventy-nine or a motorcycle registered as a limited use vehicle or an all terrain vehicle pursuant to article forty-eight-A or forty-eight-B of this chapter.

13. A violation of any of the provisions of this section except subdivisions eleven and twelve shall be punishable by a fine not exceeding one hundred dollars or by imprisonment for not exceeding thirty days, or by both such fine and imprisonment. A violation of subdivision eleven or twelve of this section shall be punishable by a fine not exceeding five hundred dollars or by imprisonment for not exceeding thirty days, or by both such fine and imprisonment.

§ 382. Hydraulic brake fluid. 1. On and after January first, nineteen hundred sixty no hydraulic brake fluid shall be sold in this state for use in motor vehicles if such brake fluid shall be below the minimum standard of specifications established by the commissioner for heavy duty type brake fluid.

2. On and after January first, nineteen hundred sixty every package, can or other container of brake fluid sold or distributed or kept for sale in this state must meet such specifications; furthermore the label thereof must indicate compliance with the specifications.

3. Any person who sells, distributes or keeps brake fluid in violation of any of the provisions of this section shall be guilty of a misdemeanor.

§ 382-a. Brake linings. 1. It shall be unlawful on and after January first, nineteen hundred sixty-six to sell, offer for sale or distribute brake linings for use on motor vehicles unless they are of a type and specification approved by the commissioner. The commissioner is hereby authorized and empowered to adopt and amend regulations governing types and specifications of brake linings that comply with approved standards and shall establish and maintain an approved list of brake linings fulfilling the specifications as established herein.

2. Any person who sells, offers for sale, distributes or keeps brake linings in violation of any of the provisions of this section shall be guilty of a misdemeanor.

§ 382-b. Service brake system. Every motor vehicle of a passenger car or station wagon type, registered in this state and manufactured or assembled after June thirtieth, nineteen hundred sixty-seven, and designated as a nineteen hundred sixty-eight or later model, shall be equipped with a service brake system of such design that rupture or failure of an actuating force component of any single brake shall not result in complete loss of braking function. The braking function may be obtained by hydraulic or other means through the normal service brake mechanism.

"Actuating force component" as used in this section shall mean the brake master cylinder, brake actuating cylinder, brake line, brake hose, or similar components performing like functions if the brake systems are other than hydraulic.

In the event of rupture or failure of an actuating force component, the unaffected brakes shall be capable of applying an adequate braking force to the vehicle.

§ 382-c. Occupant compartments. The commissioner may prescribe, by regulation, standards consistent with federal motor vehicle safety standards specifying requirements for instrument panels, seat backs, protrusions (including knobs, switches, levers, handles, bezels, and panel contours), sun visors, arm rests, steering control systems and other similar components of the interior of the occupant's compartment of motor vehicles to afford impact protection for occupants. The commissioner may limit the application of such regulations to specified classes of vehicles; provided, however, that such regulations shall not apply to any motor vehicle manufactured prior to June thirtieth, nineteen hundred sixty-seven. No motor vehicle shall be registered or driven on the public highways of the state unless it is constructed, equipped or maintained as required by the regulations promulgated pursuant to this section.

§ 383. Safety belts and anchorage assemblies. 1. Safety belts required. No motor vehicle shall be sold or registered in this state and no motor vehicle registered in this state shall be operated in this state unless such vehicle is equipped with safety belts approved by and conforming to standards established by the commissioner as follows:

(a) A motor vehicle manufactured or assembled after June thirtieth, nineteen hundred sixty-four and designated as a 1965 or later model, at least two safety belts for the front seat;

(b) A motor vehicle manufactured or assembled after June thirtieth, nineteen hundred sixty-six and designated as a 1967 or later model, at least one safety belt for the rear seat for each passenger for which the rear seat of such vehicle was designed;

* (c) A motor vehicle manufactured or assembled on or after January first, nineteen hundred sixty-eight, at least one safety belt for each passenger seat position;

* NB Repealed upon notification that any federal agency determines in writing that chapter 10 of 2020 would render New York state ineligible for the receipt of federal funds or any court of competent jurisdiction finally determines that said chapter would render New York state out of

compliance with federal law or regulation (see chapter 10 of 2020 § 6)

* (c) A motor vehicle manufactured or assembled on or after January first, nineteen hundred sixty-eight, at least one safety belt for each passenger seat position.

* NB Effective upon repeal (see chapter 10 of 2020 § 6)

* (d) An altered motor vehicle commonly referred to as a "stretch limousine" which was altered on or after January first, two thousand twenty-one, at least two safety belts for the front seat, and at least one safety belt for the rear seat for each passenger for which the rear seat of such vehicle was designed, and at least one safety belt for each passenger seat position.

* NB Repealed upon notification that any federal agency determines in writing that chapter 10 of 2020 would render New York state ineligible for the receipt of federal funds or any court of competent jurisdiction finally determines that said chapter would render New York state out of compliance with federal law or regulation (see chapter 10 of 2020 § 6)

* 1-a. No altered motor vehicle commonly referred to as a "stretch limousine" which was altered prior to January first, two thousand twenty-one shall be sold or registered in this state and no such altered motor vehicle altered prior to January first, two thousand twenty-one registered in this state shall be operated in this state unless such vehicle is retrofitted and equipped with safety belts approved by and conforming to standards established by the commissioner as follows: at least two safety belts for the front seat, and at least one safety belt for the rear seat for each passenger for which the rear seat of such vehicle was designed, and at least one safety belt for each passenger seat position.

* NB Repealed upon notification that any federal agency determines in writing that chapter 10 of 2020 would render New York state ineligible for the receipt of federal funds or any court of competent jurisdiction finally determines that said chapter would render New York state out of compliance with federal law or regulation (see chapter 10 of 2020 § 6)

2. Anchorage assemblies. No motor vehicle shall be sold or registered in this state unless such motor vehicle is equipped with safety belt assembly anchorages conforming to standards established by the commissioner for each safety belt required in such motor vehicle. In

addition, no motor vehicle manufactured or assembled after June thirtieth, nineteen hundred sixty-two shall be sold or registered in this state unless such motor vehicle is equipped with safety belt assembly anchorages conforming to standards established by the commissioner for two safety belts for the front seat of such vehicle.

3. Sale of safety belts. No safety belt shall be sold for use in a motor vehicle, or installed in a motor vehicle unless such safety belt is approved by, and conforms to standards established by the commissioner.

4. Safety belts required in certain used motor vehicles. No person, firm, association or corporation engaged in the business of selling or leasing used motor vehicles, shall sell or lease any used motor vehicle manufactured or assembled after June thirtieth, nineteen hundred sixty-two and designated as a 1963 or subsequent year model unless such motor vehicle is equipped with two safety belts for the front seat of such motor vehicle. This provision shall not apply to motor vehicles sold at wholesale or for junk.

4-a. Driver seat safety belts for certain motor vehicles. Notwithstanding any other provisions of this chapter, it shall be unlawful for the owner of a bus as defined in section one hundred four of this chapter and manufactured on or after January first, nineteen hundred sixty-five or a motor vehicle used for the purpose of transporting children to and from public or private schools to permit such vehicle to be used for such purpose unless the driver's seat on such vehicle is equipped with a seat safety belt of a type and specifications as approved by the commissioner of motor vehicles. Any owner who permits a motor vehicle to be operated without such safety belt or any person who operates a motor vehicle and fails to use such safety belt shall be in violation of the provisions of this subdivision and shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars.

* 4-b. Taxicabs, liveries, and stretch limousines. All seat safety belts installed in a taxicab or livery vehicle or in an altered motor vehicle commonly referred to as a "stretch limousine" pursuant to this

section shall be clearly visible, accessible and maintained in good working order, and no seat safety belt installed in such taxicab or livery vehicle or altered motor vehicle shall be removed therefrom.

* NB Repealed upon notification that any federal agency determines in writing that chapter 10 of 2020 would render New York state ineligible for the receipt of federal funds or any court of competent jurisdiction finally determines that said chapter would render New York state out of compliance with federal law or regulation (see chapter 10 of 2020 § 6)

* 4-b. Taxicabs and liveries. All seat safety belts installed in a taxicab or livery vehicle pursuant to this section shall be clearly visible, accessible and maintained in good working order, and no seat safety belt installed in such taxicab or livery vehicle shall be removed therefrom.

* NB Effective upon repeal (see chapter 10 of 2020 § 6)

5. (a) Passenger seat safety belts for school buses. Every school bus, as defined in section one hundred forty-two of this chapter, manufactured for use in this state on and after July first, nineteen hundred eighty-seven, shall be designed so that all passenger seats on such vehicle are equipped with seat safety belts and increased seat back padding on passenger seats of a type and specification as approved by the commissioner of transportation through the adoption of rules and regulations. Such rules and regulations shall provide that when any contactable surface of the school bus, as specified in the Federal Motor Vehicle Safety Standard, 49 CFR Section 571.222, is impacted from any direction at twenty-two feet per second by the head form, the axial acceleration at the center of gravity of the head form shall be such that the head form impact requirement shall not exceed eight hundred.

(b) Passenger seat safety belts for existing school buses. Any school bus as defined in section one hundred forty-two of this chapter, which is scheduled for retrofitting pursuant to action by a board of education or board of trustees under section thirty-six hundred thirty-five-a of the education law shall be retrofitted so that all passenger seats on such vehicles are equipped with seat safety belts and additional padding of a type and specification as approved by the commissioner of transportation through the adoption of rules and regulations. Such rules and regulations shall provide that when any contactable surface of the

school bus as specified in the Federal Motor Vehicle Safety Standard, 49CFR Section 571.222 is impacted from any direction at twenty-two feet per second by the head form, the axial acceleration at the center of gravity of the head form shall be such that the head form impact requirement shall not exceed eight hundred. Furthermore, the commissioner shall have the power through rules and regulations to exempt certain design school buses from retrofitting. In granting such exemptions, the commissioner shall consider safety factors, structural integrity of the school buses and any other items deemed necessary to preserve the safety and welfare of the school bus passengers. Provided further however that the commissioner of transportation shall not authorize retrofitting of any school bus manufactured prior to April first, nineteen hundred seventy-seven.

6. Regulations. The Commissioner shall establish by regulation standards for safety belts, safety belt anchorage assemblies, and the installation of safety belts in motor vehicles. The commissioner may also by regulation exclude certain motor vehicles or types of motor vehicles from the requirements of this section. The commissioner may prescribe the method of securing approval of safety belts.

ARTICLE 10
DIMENSIONS AND WEIGHTS OF VEHICLES

Section 385. Dimensions and weights of vehicles.
385-a. Owner liability for failure of operator to comply with weight restrictions.
386. Motor vehicle sound level limits.

§ 385. Dimensions and weights of vehicles. No person shall operate or move, or cause or knowingly permit to be operated or moved on any highway or bridge thereon, in any county not wholly included within a city, any vehicle or combination of vehicles of a size or weight exceeding the limitations provided for in this section. Except as otherwise specifically provided in subdivision fifteen of this section, no person shall operate or move, or cause or knowingly permit to be

operated or moved on any highway or bridge thereon, in any city not wholly included within one county, any vehicle or combination of vehicles of a size or weight exceeding the limitations provided for in the rules and regulations of the city department of transportation of such city adopted pursuant to section sixteen hundred forty-two of this chapter.

1. (a) (i) The width of a vehicle, inclusive of load, shall be not more than ninety-six inches plus safety devices, except that the maximum width of a vehicle, inclusive of load, shall be one hundred two inches, plus safety devices, on any qualifying or access highway. Except in a city not wholly included within one county, the maximum width of a vehicle, inclusive of load shall not be more than one hundred two inches plus safety devices on any other highway with traffic lanes designed to be a width of ten feet or more.

(ii) If the legislative body of a county not wholly contained within a city determines that any specific segment of the state highway system is not capable of safely accommodating motor vehicles with a width of one hundred two inches, plus safety devices, such body may notify the commissioner of transportation of such determination and request that the commissioner designate such segment as one where the width of motor vehicles may not exceed ninety-six inches, plus safety devices.

Before making such notification, such county legislative body shall consult with units of local government within the county in which the specific segment of such system is located, as well as the county legislative body of any county adjacent to the requesting county that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that:

(A) can safely accommodate motor vehicles having the widths set forth in this paragraph; and

(B) serves the area in which such segment is located.

The county legislative body shall transmit with such notification specific evidence of safety problems that supports such determination and the results of consultations regarding any alternative route.

If the commissioner of transportation determines, upon request by a county legislative body or on the commissioner's own initiative, that any segment of the state highway system is not capable of safely accommodating motor vehicles having the widths set forth in this paragraph, the commissioner shall exempt such segment from the provisions of this paragraph.

(b) The provisions of paragraph (a) of this subdivision shall not apply to vehicles and implements or combinations thereof, not over twelve feet in width and used solely for farm purposes, except upon any highway at any time on which operation is prohibited by order of the department of transportation.

(c) The provisions of paragraph (a) of this subdivision shall not apply to vehicles and implements or combinations thereof, between twelve and up to seventeen feet in width, used solely for farm purposes when the following requirements are met:

(i) the vehicle and implement or combination thereof is operated during the period from one-half hour before sunrise to one-half hour after sunset;

(ii) red or orange fluorescent flags not smaller than eighteen inches square, and reflectors are placed on the extreme corners of the load;

(iii) two flashing amber lights in compliance with regulations prescribed by the commissioner of transportation are attached to the rear of the load or, if the vehicle hauling such implement is equipped with hazard lights which are visible from the rear of the load, such lights are flashing; and

(iv) if the vehicle or load extends beyond the center line of a highway or if the vehicle is being operated during any time when, due to rain, sleet, snow, hail, fog, insufficient light, or for any other reason, visibility for a distance of one thousand feet ahead is not clear, the vehicle is preceded by an escort vehicle which is equipped with a warning sign and flashing lights in compliance with regulations prescribed by the commissioner of transportation.

(d) The provisions of paragraph (a) of this subdivision shall not apply to vehicles and implements or combinations thereof, not over thirteen feet in width and designed and intended for use solely for farm purposes when owned or in the possession of a dealer in farm implements

and equipment, during the same period and under the same conditions and restrictions as set forth in paragraph (b) of this subdivision; nor shall paragraph (a) of this subdivision apply to the transportation of such vehicles, implements and combinations thereof as a load on another vehicle, such vehicle and load not to exceed thirteen feet in width, during the same period and under the same conditions and restrictions as set forth in paragraph (b) of this subdivision.

(e) The provisions of paragraph (a) of this subdivision shall not apply to omnibuses or buses used solely for the transportation of children to and from school, but the width of such omnibuses shall not exceed ninety-eight inches.

(f) Notwithstanding the provisions of paragraph (a) of this subdivision, the maximum width for omnibuses or buses having a carrying capacity of more than seven passengers shall not exceed one hundred two inches, provided, however, that when omnibuses or buses are operated wholly within a city, such city may, by local law or ordinance but subject to paragraph (h) of this subdivision, limit the width of omnibuses or buses to not more than ninety-eight inches.

(g) Notwithstanding the provisions of paragraph (a) of this subdivision, racks for carrying hay, straw or unthreshed grain may have a width of ten feet at the top of the rack. In no case shall the width at the base of the rack exceed one hundred two inches, nor shall the width of a rack exceed one hundred two inches at any portion thereof while on any qualifying highway.

(h) Notwithstanding the provisions of paragraph (a) of this subdivision, a house coach used for non-commercial purposes may exceed the maximum width applicable on the highway upon which such house coach is traveling if such excess width is wholly attributable to an awning and its support hardware that is no less than seven and one-half feet off the ground and extends no more than six inches beyond the body of the vehicle on the passenger side and four inches beyond the body of the vehicle on the driver's side. A fifth wheel trailer designed to provide temporary living quarters for recreational, camping, or travel use not to exceed four hundred square feet in the set-up mode and used for non-commercial purposes may exceed the maximum width applicable on the highway upon which such fifth wheel trailer is traveling if such excess width is wholly attributable to an awning and its support hardware that

is no less than seven and one-half feet off the ground and extends no more than six inches beyond the body of the vehicle on the passenger side. This provision shall not apply to any city not wholly included within one county except such house coaches and fifth wheel trailers used for non-commercial purposes may be operated on that portion of interstate ninety-five which connects interstate two hundred eighty-seven with interstate two hundred ninety-five, that portion of interstate two hundred ninety-five which connects interstate ninety-five with interstate four hundred ninety-five and that portion of interstate four hundred ninety-five between interstate ninety-five and the Nassau-Queens county line.

(i) The commissioner of transportation may promulgate such rules and regulations as shall be necessary or desirable to effectuate the provisions of this subdivision.

2. The height of a vehicle from under side of tire to top of vehicle, inclusive of load, shall be not more than thirteen and one-half feet. Any damage to highways, bridges or highway structures resulting from the use of a vehicle exceeding thirteen feet in height where such excess height is the proximate cause of the accident shall be compensated for by the owner and operator of such vehicle.

3. (a) The length of a single vehicle, inclusive of load and bumpers, shall be not more than forty feet unless otherwise provided in this subdivision.

(b) The length of a semitrailer or trailer shall not exceed forty-eight feet provided, however, that the length of any trailer or semitrailer being operated in combination with another trailer or semitrailer shall not exceed twenty-eight and one-half feet. A B-train assembly shall be excluded from the measurement of the length of a semitrailer when such semitrailer is in use between the tractor and the second semitrailer in a tractor-semitrailer-semitrailer combination of vehicles.

(c) The length of buses having a carrying capacity of more than seven passengers shall not exceed forty-five feet, except that the length of articulated buses shall not exceed sixty-two feet. A house coach shall not exceed forty-five feet in length, provided however, that if a house

coach exceeds forty feet in length, its wall-to-wall turning diameter shall not exceed ninety feet three inches and moreover, such house coach shall have permanently affixed to its body on the front passenger side door jamb, a data-plate on which the house coach manufacturer indicates the vehicle identification number and wall-to-wall turning diameter and attests to the fact that the wall-to-wall turning diameter is calculated in accordance with the Society of Automotive Engineers J-695 Standard as such standard existed on June first, two thousand three, regarding turning capability. In the event such a house coach exceeds either twenty-six thousand pounds gross vehicle weight rating, is greater than forty feet in length or exceeds both, the operator of such house coach must have a driver's license with a personal use vehicle endorsement as set forth in subparagraph (vii) of paragraph (b) of subdivision two of section five hundred one of the this chapter. This provision shall not apply to any city not wholly included within one county except such house coaches and fifth wheel trailers used for non-commercial purposes may be operated on that portion of interstate ninety-five which connects interstate two hundred eighty-seven with interstate two hundred ninety-five, that portion of interstate two hundred ninety-five which connects interstate ninety-five with interstate four hundred ninety-five and that portion of interstate four hundred ninety-five between interstate ninety-five and the Nassau-Queens county line.

(d) The provisions of this subdivision shall not apply to fire vehicles.

(e) Except in any city not wholly included within one county, any semitrailer with a length in excess of forty-eight feet, but not exceeding fifty-three feet, may be operated on any qualifying highway or specifically designated access highway if the distance between the kingpin of the semitrailer and the centerline of the rear axle does not exceed forty-three feet and if the semitrailer is equipped with a rear-end protective device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than twenty-two inches from the surface as measured with the vehicle empty and on a level surface. In addition, such vehicles may be operated on that portion of interstate ninety-five which connects interstate two hundred eighty-seven with interstate two hundred ninety-five, that portion of

interstate two hundred ninety-five which connects interstate ninety-five with interstate four hundred ninety-five and that portion of interstate four hundred ninety-five between interstate ninety-five and the Nassau-Queens county line.

(f) The length of any center panel of an altered livery shall not exceed one hundred inches unless the owner of such vehicle can demonstrate that the livery conforms to all applicable federal and state motor vehicle safety standards at the time of registration in accordance with section four hundred one of this chapter.

(g) The length of a specialized material delivery vehicle, inclusive of load and bumpers, shall not be more than forty feet provided, however, that the portion of an attached boom or forklift that extends beyond the rear bumper by not more than five feet shall be excluded from the measurement of the length of a specialized material delivery vehicle. For the purposes of this paragraph, "specialized material delivery vehicle" shall mean a single unit truck having an attached boom or forklift for the purpose of hoisting, swinging, loading or unloading material from such truck. The provisions of this paragraph authorizing the exclusion from the measurement of the length of a specialized material delivery vehicle shall not apply unless the operator of such vehicle holds a valid commercial driver's license as defined by subdivision one of section five hundred one-a of this chapter.

* NB There are 2 par (g)'s

* (g) The length of a tow truck or car carrier, inclusive of load and bumpers, shall be not more than forty feet, except that a car carrier may have an overhang that extends beyond the rear bumper of such car carrier by not more than three feet and except, further, that a wheel lift that is less than fifteen feet in length shall not be included as part of the length of a tow truck or car carrier when such wheel lift is in use by such tow truck or car carrier to tow another motor vehicle.

* NB There are 2 par (g)'s

(h) The commissioner of motor vehicles in consultation with the commissioner of transportation may promulgate such rules and regulations as shall be necessary or desirable to effectuate the provisions of this subdivision.

4. (a) The total length of a combination of vehicles, inclusive of

load and bumpers, shall not be more than sixty-five feet.

(b) The provisions of paragraph (a) of this subdivision shall not apply to:

1. A combination of vehicles being operated on any qualifying highway or access highway;

2. Vehicles of a corporation which is subject to the jurisdiction of the interstate commerce commission, the public service commission or other regulatory body and which are used in the construction, reconstruction, repair or maintenance of its property or facilities, provided that any such vehicle complies with the safety requirements of the laws and regulations of the United States and of this state pertaining to overlength vehicles;

3. Vehicles hauling poles, girders, columns, or other similar objects of great length provided that any such vehicle complies with the safety requirements of the laws and regulations of the United States and of this state pertaining to such overlength vehicles;

4. Fire vehicles;

5. A vehicle or combination of vehicles which is disabled and unable to proceed under its own power and is being towed for a distance not in excess of ten miles for the purpose of repairs or removal from the highway, except that the distance to the nearest exit of a controlled-access highway shall not be considered in determining such ten mile distance;

6. Stinger-steered automobile transporters or stinger-steered boat transporters, while operating on qualifying and access highways. Stinger-steered boat transporters shall not, however, exceed seventy-five feet exclusive of an overhang of not more than three feet on the front and four feet on the rear of the vehicle and stinger-steered automobile transporters shall not exceed eighty feet exclusive of an overhang of not more than four feet on the front and six feet on the rear of the vehicle; and

7. A combination of vehicles operating on any qualifying or access highways consisting of a power unit and two trailers or semitrailers with a total weight that shall not exceed twenty-six thousand pounds when the overall length is greater than sixty-five feet but shall not exceed eighty-two feet in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.

(c) Notwithstanding the provisions of paragraph (a) of this subdivision, an overhang of not more than three feet on the front and four feet on the rear of an automobile transporter or an overhang of not more than four feet on the front and six feet on the rear of a stinger-steered automobile transporter or an overhang of not more than three feet on the front and four feet on the rear of a boat transporter or stinger-steered boat transporter shall be permitted.

5. In determining the number of wheels and axles on any vehicle or combination of vehicles within the meaning of this section, only two wheels shall be counted for each axle, and axles which are less than forty-six inches apart, from center to center, shall be counted as one axle. However, in the case of multiple tires or multiple wheels, the sum of the widths of all the tires on a wheel or combination of wheels shall be taken in determining tire width.

6. The weight per inch width of tire on any one wheel of a single vehicle or a combination of vehicles equipped with pneumatic tires, when loaded, shall be not more than eight hundred pounds.

7. The weight on any one wheel of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, shall be not more than eleven thousand two hundred pounds.

8. The weight on any one axle of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, shall be not more than twenty-two thousand four hundred pounds.

9. The weight on any two consecutive axles of a single vehicle or a

combination of vehicles, equipped with pneumatic tires, when loaded, and when such axles are spaced less than eight feet from center to center, shall be not more than thirty-six thousand pounds, except where axles are spaced eight feet or greater, but less than ten feet, the weight on those two axles shall not exceed that permitted by paragraph (b) of subdivision ten of this section and, in addition, shall not exceed forty thousand pounds. Axles to be counted as provided in subdivision five of this section.

10. A single vehicle or a combination of vehicles having three axles or more and equipped with pneumatic tires, when loaded, may have a total weight on all axles not to exceed thirty-four thousand pounds, plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle. Axles to be counted as provided in subdivision five of this section. In no case, however, shall the total weight exceed eighty thousand pounds except for a vehicle if operated by an engine fueled primarily by natural gas which may have a maximum gross weight of up to eighty-two thousand pounds. For any vehicle or combination of vehicles having a total gross weight less than seventy-one thousand pounds, the higher of the following shall apply:

(a) the total weight on all axles shall not exceed thirty-four thousand pounds plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle, or

(b) the overall gross weight on a group of two or more consecutive axles shall not exceed the weight produced by application of the following formula:

$$W = 500 ((LxN)/(N-1) + (12xN)+36)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet from the center of the foremost axle to the center of the rearmost axle of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six

feet or more.

For any vehicle or combination of vehicles having a total gross weight of seventy-one thousand pounds or greater, paragraph (b) shall apply to determine maximum gross weight which is permitted hereunder.

10-a. (a) Notwithstanding the provisions of subdivisions seven, eight, nine, ten, eleven and twelve of this section, the calculation of weight pursuant to such subdivisions shall exclude the actual weight, not to exceed four hundred pounds, of a fully-functioning idle reduction device installed on a vehicle or combination of vehicles that are subject to such subdivisions, provided that the operator of such vehicle: (i) maintains written certification of the actual weight of such device and acceptable proof that it is fully functional; and (ii) provides such certification and proof, upon request, to a law enforcement officer or any other officer or employee authorized to enforce this section. Acceptable proof of the functionality of such device shall consist of written certification from the manufacturer of such idle reduction device, physical demonstration, or any other documentation acceptable to the commissioner of transportation as may be set forth in regulations promulgated by such commissioner after consultation with the commissioner of environmental conservation.

(b) For the purposes of this subdivision, the following terms shall have the following meanings: (i) "auxiliary power unit" shall mean an integrated system that (A) provides heat, air conditioning, engine warming, or electricity to components on a vehicle which is subject to the provisions of this section and (B) is certified under part eighty-nine of title forty of the code of federal regulations (as may from time to time be amended) as meeting applicable emission standards; and (ii) "idle reduction device" shall mean an auxiliary power unit or other technology that is used to reduce long-duration idling (as such term is defined in paragraph seven of subdivision (a) of section 16104 of the United States code as may from time to time be amended) and allows for the main drive engine or auxiliary refrigeration engine to be shut down.

11. A vehicle or combination of vehicles equipped with any solid

rubber tires shall not have weights more than eighty per centum of those permitted in this section for pneumatic tires. Notwithstanding the provisions of this section, vehicles equipped with solid rubber tires and registered in this state prior to January first, nineteen hundred thirty-two shall be permitted to operate until January first, nineteen hundred thirty-three under tire and axle loadings prescribed by chapter four hundred ninety-eight of the laws of nineteen hundred thirty.

12. Motor vehicles or vehicles drawn by motor vehicles when equipped with metal tires shall not have weights more than forty per centum of those permitted in this section for pneumatic tires.

13. For the purpose of this section, the width of pneumatic tires shall be ascertained by measuring the greatest width of the tire casing when tire is inflated. The width of solid rubber tires shall be ascertained by measuring the width of the tire base channel or between the flanges of the metal rim, provided that no vehicle equipped with solid rubber tires shall be operated upon a public highway, which has at any point less than one inch of rubber above the top or beyond the flange or rim. The width of metal tires shall be ascertained by measuring the width of contact of the tire with the road surface.

14. No person shall operate or move a vehicle or a combination of vehicles over, on or through any bridge or structure on any highway if the weight of such vehicle, or combination of vehicles, and load, is greater than the posted capacity of the structure or exceeds the height of the posted clearance as shown by an official sign.

15. Except where inconsistent with federal law, rules and regulations: (a) The commissioner of transportation is hereby authorized to continue to grant permits, and to charge fees therefor, for the operation or movement of a vehicle or combination of vehicles having weights or dimensions which exceed the limitations provided for in this section upon any highway under his or her jurisdiction except that such permit shall not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county. Such permits shall be issued in accordance with the terms and

conditions contained in rules and regulations governing special hauling permits which have been or shall be promulgated by the commissioner of transportation and which may include, but not be limited to, a requirement that a vehicle or combination of vehicles being issued a permit shall be accompanied by one or more escort vehicles which is being operated by an individual having a valid escort certificate issued by the commissioner. The commissioner of transportation is authorized to promulgate rules and regulations governing the operation, use and equipment of escort vehicles and the duties and responsibilities of the operator of an escort vehicle. Any finding by the commissioner of transportation that an individual has violated such rules and regulations shall be grounds for the cancellation of an individual's escort certificate and a penalty not to exceed five hundred dollars per occurrence for the first violation and not to exceed one thousand dollars per occurrence for each subsequent violation. Prior to issuing such a finding, the commissioner of transportation shall afford an individual the right to a hearing pursuant to section one hundred forty-five of the transportation law. Such rules and regulations shall take into consideration, but shall not be limited to, the safety of the traveling public and the protection of the highways and the environment. Such rules and regulations shall also contain a schedule of fees to be charged for the issuance of such permits which fees shall cover, but shall not be limited to, the costs to the department of transportation for the administration of the permit program, and shall permit the commissioner of transportation to levy a surcharge of up to twenty dollars for the issuance and distribution of special hauling permits at regional offices of the department of transportation. The annual vehicle fee for a permit issued pursuant to subparagraphs (i), (ii), (ii-a) and (iii) of paragraph (f) of this subdivision shall be three hundred sixty dollars for vehicles with less than five axles, seven hundred fifty dollars for vehicles with five or six axles and nine hundred dollars for vehicles with seven or more axles. The annual vehicle fee for a permit issued pursuant to subparagraphs (iv), (v), and (vi) of paragraph (f) of this subdivision shall be four hundred eighty dollars for vehicles with less than five axles and one thousand dollars for vehicles with five or more axles. Additionally, the commissioner shall establish a fee schedule for the permitting of extra non-power combination units that

may not exceed twenty-five dollars per vehicle and may offer discounts for multi-trailer registrations. Such fees shall not be charged to municipalities in this state. A permit issued by the commissioner to a municipality pursuant to this subdivision, that would otherwise be annual, shall not expire until such municipality removes such permitted vehicle from operation; provided, however, that any amendment to such permit shall remain subject to the commissioner's approval and nothing contained in this paragraph shall be deemed to alter the authority of the commissioner to revoke any such permit as authorized by this chapter. If the permit has routing requirements, such rules and regulations shall provide that if the routing anticipates the use of highways not under the jurisdiction of the commissioner of transportation, then he or she shall immediately notify the municipality or municipalities, having jurisdiction over such highway that an application for a permit has been received and request comment thereon. Said municipality or municipalities shall not have less than fifteen days to comment. Such rules and regulations shall also contain any other requirements deemed necessary by the commissioner of transportation.

(b) Upon application in writing and good cause being shown, the department of transportation may issue a permit pursuant to this subdivision to operate or move a vehicle or a combination of vehicles, the weights or the dimensions of which exceed the limitations provided for in this section upon any highway under its jurisdiction except that such permit shall not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county. For any other public highway in any county not wholly included within a city which is not on the state system of highways the authority having jurisdiction over same may issue a similar permit, provided that the fee charged for such permit shall not exceed ten dollars.

(c) Upon application in writing and good cause being shown, the city department of transportation of a city not wholly included within one county may issue a permit pursuant to this subdivision to operate or move a vehicle or a combination of vehicles the weights or the dimensions of which exceed the limitations provided for in the rules and regulations of the city department of transportation of such city upon all highways within such city including highways which are on the state

system of highways. The rules and regulations of such city department of transportation shall contain a schedule of fees to be charged for the issuance of such permits which fees shall cover, but shall not be limited to, the costs to the city for the administration of the permit program. Such rules and regulations shall also contain any other requirements deemed necessary by the city commissioner of transportation.

(d) Except during storms, floods, fires or other public emergencies, no such permit may be issued to include a towing operation involving more than two vehicles except three vehicle combinations consisting of a tractor, semitrailer and trailer or a tractor and two trailers within legal weight and width limits proceeding to or from any qualifying highway or access highway. Every such permit may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the issuing authority. Every such permit shall be carried on the vehicle to which it refers and shall be open to the inspection of any peace officer, acting pursuant to his special duties, or police officer, or any other officer or employee authorized to enforce this section. All permits issued shall be revocable by the authority issuing them at the discretion of the authority without a hearing or the necessity of showing cause. Except for a vehicle having a maximum gross weight not exceeding eighty thousand pounds without regard to any axle weight limitation set forth herein or the maximum gross weight established by the formula commonly referred to as the bridge formula as set forth in subdivision ten of this section and except for state or municipally-owned single vehicles engaged in snow and ice control operations, or designed or fitted for snow and ice control operations while engaged in other public works operations on public highways which do not exceed the weight limits contained in subdivision seventeen-a of this section, no permit shall be issued to allow operation or movement of any vehicle or combination of vehicles whose weight exceeds the limitations otherwise prescribed in this section other than an annual permit issued pursuant to paragraph (f) of this subdivision except upon a finding by the department of transportation or the appropriate authority, as the case may be, that the load proposed is of one piece or item or otherwise cannot be separated into units of less weight provided, however, that any such permit issued upon such finding shall

not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county. Bulk milk may be considered one piece or item.

(e) The department of transportation or the issuing authority, as the case may be, shall establish criteria by rule or regulation under which any vehicle, combination of vehicles, or specified cargoes in specified circumstances or specified sites, routing or projects may be considered one piece or item for the purpose of a permit under this subdivision.

(f) The department of transportation, or other issuing authority, may issue an annual permit for a vehicle designed and constructed to carry loads that are not of one piece or item, which is registered in this state. Motor carriers having apportioned vehicles registered under the international registration plan must either have a currently valid permit at the time this provision becomes effective or shall have designated New York as its base state or one of the eligible jurisdictions of operation under the international registration plan in order to be eligible to receive a permit issued pursuant to subparagraph (i), (ii) or (ii-a) of this paragraph. No permit issued pursuant to this paragraph shall be valid for the operation or movement of vehicles on any state or other highway within any city not wholly included within one county unless such permit was issued by the city department of transportation of such city.

Effective January first, two thousand five, no vehicle or combination of vehicles issued a permit pursuant to this paragraph shall cross a bridge designated as an R-posted bridge by the commissioner of transportation or any other permit issuing authority absent a determination by such commissioner or permit issuing authority that the permit applicant has demonstrated special circumstances warranting the crossing of such bridge or bridges and a determination by such commissioner or permit issuing authority that such bridge or bridges may be crossed safely, provided, however, that in no event shall a vehicle or combination of vehicles issued a permit under this paragraph be permitted to cross a bridge designated as an R-posted bridge if such vehicle or combination of vehicles has a maximum gross weight exceeding one hundred two thousand pounds, and provided further, however, that nothing contained herein shall be deemed to authorize any vehicle or

combination of vehicles to cross any such bridge within any city not wholly included within one county unless such vehicle or combination of vehicles has been issued a valid permit by the city department of transportation of such city pursuant to this subdivision.

No vehicle having a model year of two thousand six or newer shall be issued a permit pursuant to this paragraph unless each axle of such vehicle or combination of vehicles, other than steerable or trackable axles, is equipped with two tires on each side of the axle, any air pressure controls for lift axles are located outside the cab of the vehicle and are beyond the reach of occupants of the cab while the vehicle is in motion, the weight on any grouping of two or more axles is distributed such that no axle in the grouping carries less than eighty percent of any other axle in the grouping and any liftable axle is steerable or trackable; and, further provided, after December thirty-first, two thousand nineteen, no permit shall be issued pursuant to this paragraph to a vehicle of any model year that does not meet the requirements of this provision, except that such permits may be issued prior to January first, two thousand twenty to a vehicle that does not meet the requirement concerning axle grouping weight distribution, but meets all other requirements of this section.

A divisible load permit may only be transferred to a replacement vehicle by the same registrant or transferred with the permitted vehicle as part of the sale or transfer of the permit holder's business; or, if the divisible load permit is issued pursuant to subparagraph (iv), (v) or (vi) of this paragraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess and has been effective for the five years preceding a transfer of such permit, the permit may be transferred with the permitted vehicle in the sale of the permitted vehicle to the holder of a permit issued pursuant to subparagraph (iv), (v) or (vi) of this paragraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess.

If a permit holder operates a vehicle or combination of vehicles in violation of any posted weight restriction, the permit issued to such

vehicle or combination of vehicles shall be deemed void as of the next day and shall not be reissued for a period of twelve calendar months.

Until June thirtieth, nineteen hundred ninety-four, no more than sixteen thousand power units shall be issued annual permits by the department for any twelve-month period in accordance with this paragraph. After June thirtieth, nineteen hundred ninety-four, no more than sixteen thousand five hundred power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, nineteen hundred ninety-five, no more than seventeen thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand three, no more than twenty-one thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand five, no more than twenty-two thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand six, no more than twenty-three thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand seven, no more than twenty-four thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand eight, no more than twenty-five thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand sixteen, no more than twenty-seven thousand power units shall be issued annual permits by the department for any twelve-month period.

Whenever permit application requests exceed permit availability, the department shall renew annual permits that have been expired for less than four years which meet program requirements, and then shall issue permit applicants having less than three divisible load permits such additional permits as the applicant may request, providing that the total of existing and new permits does not exceed three. Remaining permits shall be allocated by lottery in accordance with procedures established by the commissioner in rules and regulations.

The department of transportation may issue a seasonal agricultural permit in accordance with subparagraphs (i), (ii) and (iii) of this paragraph that will be valid for four consecutive months with a fee equal to one-half the annual permit fees established under this subdivision.

For a vehicle issued a permit in accordance with subparagraphs (iii), (iv), (v) and (vi) of this paragraph, such a vehicle must have been registered in this state prior to January first, nineteen hundred eighty-six or be a vehicle or combination of vehicles which replace such type of vehicle which was registered in this state prior to such date provided that the manufacturer's recommended maximum gross weight of the replacement vehicle or combination of vehicles does not exceed the weight for which a permit may be issued and the maximum load to be carried on the replacement vehicle or combination of vehicles does not exceed the maximum load which could have been carried on the vehicle being replaced or the registered weight of such vehicle, whichever is lower, in accordance with the following subparagraphs:

(i) A permit may be issued for a vehicle having at least three axles and a wheelbase not less than sixteen feet and for a vehicle with a trailer not exceeding forty-eight feet. The maximum gross weight of such a vehicle shall not exceed forty-two thousand five hundred pounds plus one thousand two hundred fifty pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle, or one hundred two thousand pounds, whichever is more restrictive provided, however, that any four axle group weight shall not exceed sixty-two thousand pounds, any tridem axle group weight shall not exceed fifty-seven thousand pounds, any tandem axle weight does not exceed forty-seven thousand pounds and any single axle weight shall not exceed twenty-five thousand pounds.

Any additional special authorizations contained in a currently valid annual permit shall cease upon the expiration of such current annual permit.

(ii) A permit may be issued subject to bridge restrictions for a vehicle or a combination of vehicles having at least six axles and a wheel base of at least thirty-six and one-half feet. The maximum gross

weight of such vehicle or combination of vehicles shall not exceed one hundred seven thousand pounds and any tridem axle group weight shall not exceed fifty-eight thousand pounds and any tandem axle group weight shall not exceed forty-eight thousand pounds.

(ii-a) A permit may be issued subject to bridge restrictions for a combination of vehicles having at least seven axles and a wheelbase of at least forty-three feet. The maximum gross weight of such combination of vehicles shall not exceed one hundred seventeen thousand pounds, any four axle group weight shall not exceed sixty-three thousand pounds, any tridem axle group weight shall not exceed fifty-eight thousand pounds, any tandem axle group weight shall not exceed forty-eight thousand pounds, and any single axle weight shall not exceed twenty-five thousand pounds.

Each axle of such combination of vehicles, other than steerable or trackable axles, shall be equipped with two tires on each side of the axle, any air pressure controls for lift axles shall be located outside the cab of the combination of vehicles and shall be beyond the reach of occupants of the cab while the combination of vehicles is in motion, the weight on any grouping of two or more axles shall be distributed such that no axle in the grouping carries less than eighty percent of any other axle in the grouping, and any liftable axle of such combination of vehicles shall be steerable or trackable.

(iii) A permit may be issued for a vehicle having two axles and a wheelbase not less than ten feet, with the maximum gross weight not in excess of one hundred twenty-five percent of the total weight limitation as set forth in subdivision ten of this section. Furthermore, until December thirty-first, nineteen hundred ninety-four, any single rear axle weight shall not exceed twenty-eight thousand pounds. After December thirty-first, nineteen hundred ninety-four, any axle weight shall not exceed twenty-seven thousand pounds.

(iv) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle having at least three axles and a wheelbase not exceeding forty-four feet nor less than seventeen feet or for a vehicle with a trailer not exceeding forty feet.

Until December thirty-first, nineteen hundred ninety-four, a permit may only be issued for such a vehicle having a maximum gross weight not exceeding eighty-two thousand pounds and any tandem axle group weight shall not exceed sixty-two thousand pounds.

After January first, nineteen hundred ninety-five, the operation of such a vehicle shall be further limited and a permit may only be issued for such a vehicle having a maximum gross weight not exceeding seventy-nine thousand pounds and any tandem axle group weight shall not exceed fifty-nine thousand pounds, and any tridem shall not exceed sixty-four thousand pounds.

A permit may be issued only until December thirty-first, nineteen hundred ninety-four for a vehicle having at least three axles and a wheelbase between fifteen and seventeen feet. The maximum gross weight of such a vehicle shall not exceed seventy-three thousand two hundred eighty pounds and any tandem axle group weight shall not exceed fifty-four thousand pounds.

No vehicle having a model year of two thousand six or newer shall be issued a permit pursuant to this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess unless it is equipped with at least four axles, and further provided, after December thirty-first, two thousand fourteen, no permit shall be issued pursuant to this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess to a vehicle of any model year unless the vehicle is equipped with at least four axles.

(v) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange or Dutchess, a permit may be issued only until December thirty-first, nineteen hundred ninety-nine for a vehicle or combination of vehicles that has been permitted within the past four years having five axles and a wheelbase of at least thirty-six and one-half feet. The maximum gross weight of such a vehicle or combination of vehicles shall not exceed one hundred five thousand pounds and any tandem axle group weight shall not exceed fifty-one thousand pounds.

Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle or combination of vehicles having at least five axles and a wheelbase of at least thirty feet. The maximum gross weight of such vehicle or combination of vehicles shall not exceed ninety-three thousand pounds and any tridem axle group weight shall not exceed fifty-seven thousand pounds and any tandem axle group weight shall not exceed forty-five thousand pounds.

(vi) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle or combination of vehicles having at least five axles or more and a wheelbase of at least thirty-six and one-half feet, provided such permit contains routing restrictions.

Until December thirty-first, nineteen hundred ninety-four, the maximum gross weight of a vehicle or combination of vehicles permitted under this subparagraph shall not exceed one hundred twenty thousand pounds and any tandem or tridem axle group weight shall not exceed sixty-nine thousand pounds, provided, however, that any replacement vehicle or combination of vehicles permitted after the effective date of this subparagraph shall have at least six axles, any tandem axle group shall not exceed fifty thousand pounds and any tridem axle group shall not exceed sixty-nine thousand pounds.

After December thirty-first, nineteen hundred ninety-four, the tridem axle group weight of any vehicle or combination of vehicles issued a permit under this subparagraph shall not exceed sixty-seven thousand pounds, any tandem axle group weight shall not exceed fifty thousand pounds and any single axle weight shall not exceed twenty-five thousand seven hundred fifty pounds.

After December thirty-first, nineteen hundred ninety-nine, all vehicles issued a permit under this subparagraph must have at least six axles.

After December thirty-first, two thousand fourteen, all combinations of vehicles issued a permit under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess must have at least seven axles and a wheelbase of at least forty-three feet.

After December thirty-first, two thousand six, no permits shall be issued under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for a vehicle or combination of vehicles having less than seven axles or having a wheelbase of less than forty-three feet, provided, however, that permits may be issued for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for vehicles or combinations of vehicles where the permit applicant demonstrates that the applicant acquired the vehicle or combination of vehicles prior to December thirty-first, two thousand six, and that if the vehicle or combination of vehicles was acquired by the applicant after the effective date of this provision, such vehicle or combination of vehicles is less than fifteen years old. In instances where the application is for a combination of vehicles, the applicant shall demonstrate that the power unit of such combination satisfies the conditions of this subparagraph. In no event shall a permit be issued under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for a vehicle or combination of vehicles having less than seven axles or having a wheelbase of less than forty-three feet after December thirty-first, two thousand fourteen.

Except as otherwise provided by this subparagraph for the period ending December thirty-first, two thousand fourteen, after December thirty-first, two thousand three, any combination of vehicles issued a permit under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess shall not exceed one hundred twenty thousand pounds, shall have at least seven axles, shall have a wheelbase of at least forty-three feet, and single axle weight shall not exceed twenty-five thousand seven hundred fifty pounds, any tandem axle group weight shall not exceed forty-eight

thousand pounds, any tridem axle group weight shall not exceed sixty-three thousand pounds and any four axle group shall not exceed sixty-five thousand pounds.

From the date of enactment of this paragraph, permit applications under subparagraphs (i), (ii), (ii-a), (iii), (iv), (v) and (vi) of this paragraph for vehicles registered in this state may be honored by the commissioner of transportation or other appropriate authority. The commissioner of transportation and other appropriate authorities may confer and develop a system through rules and regulations to assure compliance herewith.

(g) A sani-van vehicle, as defined in section one hundred forty-one-a of this chapter for which a permit has been issued pursuant to this subdivision is authorized to operate or move on all public highways or bridges within this state in accordance with any weight limitations specified in such permit.

(h) In any action brought for damage or destruction of any highway or bridge including an action pursuant to section three hundred twenty of the highway law, there shall be a presumption that the operation of a vehicle or combination of vehicles in excess of the maximum weight limits established by this section or, in a city not wholly included within one county, in excess of the maximum weight limits prescribed by the rules and regulations of the city department of transportation of such city, is the proximate cause of such damage or destruction to the highway bridge or appurtenant structure, whether or not a permit to exceed such weight limits was issued by the appropriate authority.

(i) All moneys collected by the commissioner of transportation pursuant to this subdivision shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.

(j) The commissioner of transportation is authorized to conduct hearings with regard to the issuance or revocation of any permit issued by the commissioner of transportation pursuant to this section and relating to the violation of any condition applicable to such permit as provided in subdivision three of section one hundred forty-five of the transportation law. If a permit issued by the department of

transportation is seized and the holder of the permit makes a written request to the department of transportation for a hearing, the commissioner of transportation shall schedule a hearing within twenty days of the receipt of such request.

(k) Any permit issued pursuant to this section that is seized shall be forwarded to the issuing authority as soon as practicable.

15-a. In furtherance of the authority to issue permits pursuant to subdivision fifteen of this section, the department of transportation and the New York state thruway authority are authorized to enter into a cooperative agreement relative to permits to operate or move vehicles or combinations of vehicles the weights or the dimensions of which exceed the limitations otherwise provided for in this section along the thruway system and state highway system, routes 5 and 49 between the relocated thruway interchanges, including the Edic road interchange, and River road in the vicinity of Edic road in the vicinity of the city of Utica. Permits issued hereunder may be of a joint or reciprocal type for operations or movements on such highway systems and shall not be limited to loads proposed as one piece or item or otherwise cannot be separated into units of less weight.

16. The provisions of this section relating to the maximum dimension and weight limitations of vehicles shall not be applicable to any vehicle or combination of vehicles proceeding to or from the New York state thruway while being operated at the following locations, provided, however, that the maximum dimensions and weight limitations of such a vehicle or combination of vehicles are in compliance with those applicable to the New York state thruway;

(a) Within a radius of fifteen hundred feet of any New York state thruway toll booth at Fultonville, New York;

(b) Within a radius of two thousand feet of any exit or entrance designated B-3 to the New York state thruway, Berkshire section, at New York state route twenty-two;

(c) Over a route extending north and south on New York state route 332 between New York state thruway exit no. 44 and its intersection with Collett road, and east and west on Collett road between said intersection and no. 6070 Collett road, a distance of approximately .8

miles.

(d) Within a radius of 1.2 miles from New York state thruway toll booth no. 56 on access road to be built between such toll booth no. 56 and the present eastern terminus of route 179 at South Park avenue, over route 179 and old Mile Strip road to the truck terminal entrance on old Mile Strip road at a point approximately two thousand four hundred thirty feet southeast of the intersection of old Mile Strip road and Route 5 as measured along old Mile Strip road, or across Lake Avenue at the northern end of the truck terminal;

(e) Within a distance of 1.5 miles measured along that portion of the River Road, New York state touring route 266, also known as state highway 129, lying generally northerly of the South Grand Island Bridges, such distance to be measured from the point where the southernmost access road to New York state thruway station no. 17 intersects with said River Road;

(f) Within a distance of two miles measured along New York state route 400, such distance to be measured from the point where said route 400 intersects with the New York state thruway, and .5 miles measured along New York state route 277, such distance to be measured in a northerly direction from the point where New York state route 277 intersects with New York state route 400;

(g) Within a distance of .8 miles measured along Walden Avenue in the Town of Cheektowaga, such distance to be measured in a westerly direction from the point where said Walden Avenue intersects with the New York state thruway, .5 miles measured along said Walden Avenue, such distance to be measured in an easterly direction from the point where said Walden Avenue intersects with the New York state thruway, 1,640 feet measured along a roadway purchased by the Town of Cheektowaga from Sorrento Cheese, Inc., such distance to be measured in a southerly direction from the point where said roadway intersects with Walden Avenue, and .9 miles measured along New York state route 240, such distance to be measured in a southerly direction from the point where New York state route 240 intersects with said Walden Avenue;

(h) Within a distance of .1 miles measured along Sheridan Drive, New York state route 324, such distance to be measured in an easterly direction from the point where said Sheridan Drive intersects with New York state thruway interchange N-15, and .4 miles measured along Kenmore

Avenue, such distance to be measured in a southerly direction from the point where Sheridan Drive intersects with said Kenmore Avenue;

(i) Within a distance of .8 miles measured along Dingens street in the city of Buffalo such distance to be measured in a westerly direction from the Ogden street exit of the Niagara section of the New York state thruway;

(j) Within a distance of .25 miles along South street in the city of Buffalo between Hamburg street and Louisiana street;

(k) Within a distance of .7 miles measured along Louisiana street in the city of Buffalo such distance to be measured in a southerly direction from the Louisiana street entrance of the Niagara section of the New York state thruway; and

(l) Within a distance of 1700 feet measured along that portion of the River Road, New York state touring route 266, also known as state highway 129, lying generally southerly of the South Grand Island Bridges, such distance to be measured from the point where the southern most access road to New York state thruway station no. 17 intersects with said River Road; and

(m) Within a distance of 0.6 miles extending north along New York state route 233 from a point where such route 233 intersects with the exit or entrance designated number thirty-two of the New York state thruway at Westmoreland in Oneida county.

(n) Within a route from the thruway toll booth at the New York state thruway exit 21-B and along the access road to route 9-W, and thence 1500 feet along route 9-W to be measured in a northerly direction from the point where such thruway access road intersects route 9-W.

(o) (i) Within a distance of 0.8 miles from exit B-1 of the New York state thruway Berkshire Spur, such distance to be measured in a northerly direction from the point where state route 9 intersects the southern most access ramp leading to the New York state thruway.

(ii) Within a distance of 1.6 miles from the exit B-1 of the New York state thruway Berkshire Spur, with such distance being measured in a northerly direction from the point where state route 9 intersects the southern most access ramp leading to the New York state thruway, upon a determination by the commissioner of transportation that the vehicle or combination of vehicles could operate safely upon such route and that no applicable federal law, regulation or other requirement prohibits the

operation of such vehicle or combination of vehicles on such route.

(p) Within a distance of .45 miles measured along James E. Casey Drive in the city of Buffalo such distance to be measured in a northerly direction from Dingens street.

(q) Within approximately one mile of the thruway toll booth at the New York state thruway exit 23 in a northerly direction along interstate route 787 to the first "Port of Albany" exit, and right on Church street south approximately one-half mile to the south end of the Mobil terminal facility and return from Church street entering interstate route 787 in a southerly direction to interchange 23 of the New York state thruway.

(r) On any route designated by the commissioner of transportation within a radius of six thousand six hundred feet of any exit or entrance designated interchange 26 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

* (s) Over a route extending east and west across New York state route 414 from the New York state thruway exit 41 to the terminus of the exit 41 on and off ramps for a distance of approximately 100 feet across route 414 and within approximately .1 miles of the on and off ramp of exit 41 of the New York state thruway. Nothing contained in this provision shall be construed to permit these vehicles or combination of vehicles to turn on to route 414 or to travel along route 414.

* NB There are 2 (s)'s

* (s) Within a distance of three hundred twenty-five feet, measured along Stew Leonard drive in the city of Yonkers, such distance to be measured in a west-east direction from the point where Stew Leonard drive intersects with the southbound off-ramp and the northbound on-ramp of interchange 6A of the New York state thruway.

* NB There are 2 (s)'s

(t) Over a route extending south on New York state route 332 between New York state thruway exit number 44 and its intersection with Gateway drive and west on Gateway Drive to its intersection with Plastermill Road and east on Plastermill Road to its intersection with Loomis Road and east on Loomis road between said intersection and no. 5923 Loomis

road, a distance of approximately 1.6 miles, and west on Loomis road between 5923 Loomis road and its intersection with New York state route 332 and thence north on New York state route 332 to New York state thruway exit number 44, a distance of approximately 1.1 miles, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(u) Over a route extending north and on New York state route 77 between New York state thruway exit number 48-a and the overpass of the New York state thruway, and south on New York state route 77, a distance of approximately .5 miles, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(v) Within a distance of approximately one mile from the New York state thruway interchange 24 traveling along interstate route 90 to interchange 2 Washington avenue, and to Washington avenue traveling westbound to Fuller road in a northerly direction to interstate route 90 traveling to interchange 24 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(w) Within a distance of approximately 1.9 miles from the New York state thruway interchange 25A, traveling in a westbound direction along interstate route 88 to exit 25 to state route 7, and to a left on Becker road traveling in a southbound direction on Becker road for approximately .2 miles to the New York state thruway interchange 25A tandem lot access road, or to the intersection of Becker road and state route 7, and traveling in an eastbound direction for approximately 1.4 miles on state route 7 to the intersection of state route 7 and Dunnsville road and then traveling in a southbound direction on Dunnsville road for approximately .3 miles where the commissioner of

transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(x) Within a distance of approximately 2.2 miles from the New York state thruway interchange 34A traveling in a southbound direction along interstate route 481 to interstate 481 exit 5E Kirkville road east along state route 53 Kirkville road in an eastbound direction to interstate route 481 traveling northbound to exit 6 to interchange 34A of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(y) Within a distance of approximately .8 miles from the New York state thruway interchange 35, traveling approximately 200 feet around Carrier circle to traveling northbound on Thompson road for approximately 1000 feet, or traveling southbound on Thompson road approximately 100 feet, to traveling westbound on Tarbell road for approximately .5 miles to reenter at the Dewitt service area of the New York state thruway where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(z) Within a distance of approximately one mile from the New York state thruway interchange 36 traveling in a southbound direction on interstate 81 to interstate 81 exit 25 7th North street, and traveling eastbound on 7th North street to interstate 81 traveling in a northbound direction to interchange 36 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(aa) Within a distance of approximately .6 miles from the New York state thruway interchange 39 traveling eastbound on interstate 690 to

interstate 690 exit 2 Jones road in a northbound direction to state route 690 north to interchange 39 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(bb) Within a distance of approximately .5 miles from the New York state thruway interchange 45, traveling on interstate 490 to interstate 490 exit 29, in a southwesterly direction along New York state route 96 to the point where New York state route 96 intersects with the entrance ramp to the New York state thruway interchange 45, and for approximately ..2 miles along this entrance ramp to the New York state thruway interchange 45, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(cc) Within a distance of approximately .6 miles from the New York state thruway interchange 46, traveling in a northeasterly direction on the ramp from the New York state thruway interchange 46 to interstate 390 north exit to New York state route 253, Lehigh Station road, for a distance of approximately .5 miles along the ramp from interstate 390 north exit to New York state route 253, Lehigh Station road, for a distance of approximately .6 miles in a westerly direction along New York state route 253, Lehigh Station road, to the intersection of New York state route 253 with New York state route 15, then for a distance of approximately .6 miles in a southerly direction along New York state route 15, to the New York state thruway interchange 46 maintenance facility entrance, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(dd) Within a distance of approximately .3 miles from the New York state thruway interchange 47, traveling on interstate 490 to interstate 490 exit 1, to a distance of approximately .2 miles along the ramp from

interstate 490 exit 1, for a distance of approximately .4 miles in a southwesterly direction to the entrance ramp of the New York state thruway interchange 47, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(ee) Within a distance of approximately .6 miles from the New York state thruway interchange 19, traveling in a westbound direction along route 28 to route 209, and traveling in a southbound direction on route 209 for approximately .1 miles to route 28, and traveling in an eastbound direction on route 28 for approximately .8 miles to the New York state thruway interchange 19 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(ff) Within a distance of approximately .5 miles from the New York state thruway interchange 31, traveling onto the ramp to Genesee street south for approximately 2800 feet to Genesee street north for approximately 275 feet to interchange 31 of the New York state thruway where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(gg) Within a distance of approximately .2 miles from the New York state thruway interchange 33 traveling westbound on state route 365 for approximately 900 feet to interchange 33 of the New York state thruway where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(hh) Within a distance of approximately .15 miles from the New York state thruway interchange 42 traveling on state route 14 for approximately 750 feet for travel to and from the thruway tandem lot and

interchange 42 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

(ii) Within a distance of approximately .1 miles from the New York state interchange 43 traveling on state route 21 for approximately 600 feet for travel to and from the thruway tandem lot and interchange 43 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

17-a. Except over any highway which is a part of a state interstate route:

(i) The following weight limits shall apply to any state or municipally owned single vehicle, equipped with pneumatic tires, engaged in snow and ice control operations on public highways, including the stockpiling of materials and abrasives therefor, with a plow, leveling wing, or material hopper installed:

(a) The total weight on any one wheel, shall not be more than sixteen thousand pounds.

(b) The total weight on a single axle, shall not be more than thirty-two thousand pounds.

(c) The total weight on two consecutive axles, when such axles are spaced less than ten feet from center to center, shall not be more than forty-two thousand pounds.

(d) The total weight on all axles of a two axle vehicle shall not be more than fifty-two thousand pounds; the total weight on all axles of a three axle vehicle shall not be more than sixty-two thousand pounds.

(ii) The overall width of any state or municipally owned single vehicle, equipped with pneumatic tires, engaged in snow and ice control operations on public highways, shall not be more than twenty-five feet.

(iii) The following weight limits shall apply to any state or municipally owned single vehicle, equipped with pneumatic tires, designed or fitted for snow and ice control operations, while engaged in

other public works operations on public highways:

(a) The total weight on any one wheel, shall not be more than sixteen thousand pounds.

(b) The total weight on a single axle, shall not be more than thirty-two thousand pounds.

(c) The total weight on two consecutive axles, when such axles are spaced less than ten feet from center to center, shall not be more than thirty-eight thousand pounds.

(d) The total weight on all axles of a two axle vehicle shall not be more than fifty-two thousand pounds; the total weight on all axles of a three axle vehicle shall not be more than fifty-eight thousand pounds.

17-b. Except over any highway which is a part of a state interstate route, the following weight limits shall apply to any fire vehicle equipped with pneumatic tires.

(a) The total weight on any one wheel shall not be more than sixteen thousand pounds.

(b) The total weight on a single axle shall not be more than thirty-two thousand pounds.

(c) The total weight on two consecutive axles, when such axles are spaced less than ten feet from center to center, shall not be more than forty-two thousand pounds.

(d) The total weight on all axles of a two axle vehicle shall not be more than fifty-two thousand pounds.

18. Except as provided in subdivisions eighteen-a or nineteen of this section, the violation of the provisions of this section including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, shall be punishable by a fine of not less than two hundred nor more than five hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense; by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for

any violation under this subdivision may not be suspended. For any violation of the provisions of this section, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, the registration of the vehicle may be suspended for a period not to exceed one year whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein.

18-a. A violation of the provisions of subdivisions two or fourteen of this section, where the violation relates to the height of the vehicle, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense; by a fine of not more than two thousand dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of the provisions of subdivisions two or fourteen of this section where the violation relates to the height of the vehicle, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, the registration of the vehicle may be suspended for a period not to exceed one year whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein.

19. (a) A violation of the provisions of subdivision eight, nine, or ten of this section by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or a

violation of such rules and regulations, by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section or such rules and regulations, or a violation of the weight limitations specified by permit issued pursuant to subdivision fifteen of this section shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner or the owner's agent or lessee in accordance with the following schedule:

Percent of excess weight (percentage)		Amount of fine (dollars)
greater than	less than or equal to	
0	2.0	150
2.0	4.0	300
4.0	6.0	450
6.0	7.0	525
7.0	8.0	600
8.0	10.0	750
10.0	12.0	950
12.0	14.0	1,150
14.0	16.0	1,350
16.0	18.0	1,550
18.0	20.0	1,750
20.0	22.0	1,950
22.0	24.0	2,150
24.0	26.0	2,350
26.0	28.0	2,550
28.0	30.0	2,750
30.0	32.0	2,950
32.0	34.0	3,150
34.0	36.0	3,350
36.0	38.0	3,550
38.0	40.0	3,750
40.0		3,750
or greater		plus $125 for each percent

over 40 percent

(NOTE: Where the total weight, axle weight or axle grouping weight is greater than seven percent including any applicable enforcement scale tolerance in excess of the limits specified by a permit in areas outside a city not wholly contained in one county, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.

(b) For violations to which the penalties set forth in paragraph (a) of this subdivision apply, in connection with the weighing of a vehicle or combination of vehicles, if it is found that there is a violation of subdivision ten of this section and also of subdivision eight or nine of this section, or both subdivisions eight and nine of this section, there shall be a single fine imposed and the maximum amount of such fine shall not exceed the highest fine that could be imposed under this subdivision.

(c) Notwithstanding paragraphs (a) and (b) of this subdivision, a violation of the provisions of subdivision ten of this section in a city not wholly included within one county or of the provisions of the rules or regulations of the city department of transportation setting forth the maximum allowable gross weight for the operation of a vehicle in such city without a permit for such vehicle, by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or such rules and regulations, or the weight limitations specified by permit issued pursuant to subdivision fifteen of this section (excluding enforcement scale tolerance not to exceed five percent) shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner or his agent or lessee in accordance with the following schedule:

EXCESS TOTAL WEIGHT

(pounds)		Amount of Fine
GREATER THAN	LESS THAN OR EQUAL TO	(DOLLARS)
0	2,000	50
2,000	3,000	75
3,000	4,000	100

4,000	5,000	200
5,000	6,000	300
6,000	7,000	400
7,000	8,000	500
8,000	9,000	600
9,000	10,000	700
10,000	15,000	1,200
15,000	20,000	1,700
20,000	25,000	2,200
25,000	30,000	2,700
30,000	35,000	3,200
35,000	40,000	3,700
40,000	45,000	4,200
45,000	50,000 or greater	4,700

(NOTE: Where the excess total weight is greater than the limits specified by a permit, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.)

(d) Notwithstanding paragraphs (a) and (b) of this subdivision, a violation of the provisions of subdivisions eight and nine of this section in a city not wholly included within one county or of the provisions of the rules or regulations of the city department of transportation setting forth the maximum allowable axle or tandem axle weight for the operation of a vehicle in such city without a permit for such vehicle, by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or such rules or regulations, or the weight limitations specified by permit issued pursuant to subdivision fifteen of this section shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner, or his agent, or lessee, in accordance with the following schedule:

Percentage of excess weight

(PERCENTAGE)		AMOUNT OF FINE
GREATER THAN	LESS THAN OR EQUAL TO	(DOLLARS)
0	5.0	100

5.0	10.0	200
10.0	15.0	350
15.0	20.0	600
20.0	25.0	1000
25.0	30.0	1600
30.0	35.0	2450
35.0	40.0	3600
40.0	45.0	5100
45.0		7000

(NOTE: Where the excess axle or axles weight is greater than the limits specified by a permit, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.)

(e) In addition to the fines imposed by paragraphs (a), (c) and (d) of this subdivision, the registration of the vehicle may be suspended for a period not to exceed one year, whether at the time of the violation of this section the vehicle was in charge of the owner or the owner's agent, or lessee. The provisions of section five hundred ten of this chapter shall apply to such suspension, except as otherwise provided herein.

(f) If the vehicle is the subject of a permit issued pursuant to paragraph (f) of subdivision fifteen of this section and if the registered owner of a vehicle fails to appear on the return date or subsequent adjourned date of a summons, appearance ticket or notice of violation issued pursuant to this subdivision or fails to pay a fine imposed pursuant to this subdivision, the registration of the vehicle or the privilege of operating the vehicle in this state shall be suspended for a period not to exceed one year. The suspension shall remain in effect until the registered owner's appearance or payment of the fine. The commissioner or the commissioner's agent may deny a registration application of any other person for the same vehicle where the commissioner has reasonable grounds to believe that such registration will have the effect of defeating the purpose of this paragraph.

20. Notwithstanding the provisions of sections three hundred eighty-five, sixteen hundred thirty, sixteen hundred thirty-one, sixteen

hundred forty, sixteen hundred forty-two, sixteen hundred fifty and sixteen hundred sixty of this chapter, nor of any other law, statute, ordinance, rule or regulation, the state, a city, county, town, village, public authority, including the port of New York and New Jersey authority, or commission, or any department, agency, subdivision or other entity thereof, shall not enact nor enforce any law, statute, ordinance, rule or regulation with respect to vehicle dimensions or weights which shall violate any of the provisions of the federal surface transportation assistance act of nineteen hundred eighty-two. Any such law, statute, ordinance, rule or regulation which results in a notification of an imminent loss or withholding of federal highway aid to the state shall to the degree inconsistent hereafter be deemed null and void and shall not be enforced.

20-a. If a vehicle or combination of vehicles is operated in violation of this section, an appearance ticket or summons may be issued to the registrant of the vehicle, or if a combination of vehicles, to the registrant of the hauling vehicle rather than the operator. In the event the vehicle is operated by a person other than the registrant, any appearance ticket or summons issued to the registrant shall be served upon the operator, who shall be deemed the agent of the registrant for the purpose of receiving such appearance ticket or summons. Such operator-agent shall transmit such ticket or summons to the registrant of the vehicle or the hauling vehicle. If the registrant does not appear on the return date, a notice establishing a new return date and either containing all pertinent information relating to the charge which is contained on the summons or appearance ticket or accompanied by a copy of the information or complaint shall also be mailed by certified or registered mail by or on behalf of the court or administrative tribunal before whom the appearance ticket or summons is returnable to the registrant at the address given on the registration certificate for the vehicle, or if no registration certificate is produced at the time the appearance ticket or summons is issued, to the address of the registrant on file with the department or given to the person issuing the appearance ticket or summons. Whenever proceedings in a court or administrative tribunal of this state result in a conviction for a violation of this section, and the court or administrative tribunal has

made the mailing specified herein, the court or administrative tribunal shall levy a mandatory surcharge, in addition to any sentence or other surcharge required or permitted by law, in the amount of thirty dollars. This mandatory surcharge shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge by a town or village court, the court shall pay such money to the state comptroller who shall, pursuant to subdivision two of section ninety-nine-a of the state finance law, credit such money to the account of the town or village which sent the mandatory surcharge. If such collecting authority is any other court of the unified system or administrative tribunal it shall, within such period, pay such money to the state comptroller who shall deposit such money into the state treasury. The provisions of this subdivision shall not apply to owner-operators of any motor vehicle or to any motor vehicle or trailer which is registered in the name of a person whose principal business is the lease or rental of motor vehicles or trailers unless the motor vehicle or trailer is being operated by an employee of the registrant or for a community of interest other than the lease or rental agreement between the parties to the lease or rental agreement.

21. The court may impose any sentence authorized by this chapter provided, however, any such sentence must include a fine as provided in this section.

22. In any case wherein the charge laid before the court alleges a violation of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to a violation of one of the subdivisions of this section. No other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized. Provided, however, if the district attorney upon reviewing the available evidence determines that the charge of a violation of this section is not warranted, or suspension of registration is not, under the circumstances, appropriate he may consent, and the court may allow, a disposition by plea of guilty to that or another charge in satisfaction of such charge and, may waive suspension of registration as required by this section, provided,

however, the court must impose at least the minimum fine as authorized in this section for the offense of conviction.

23. Except on highways designated as part of the interstate system, the provisions of subdivisions six, seven, eight, nine, ten, eleven and twelve of this section shall not apply to any fire vehicle, as such term is defined in section one hundred fifteen-a of this chapter.

24. The provisions of subdivisions six, seven, eight, nine, ten, eleven and twelve of this section shall not apply to any tow truck that is transporting a disabled vehicle from the place where such vehicle became disabled to the nearest appropriate repair facility and has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

*** § 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

§ 386. Motor vehicle sound level limits. 1. As used in this section;

a. A-weighted sound level shall mean the sound pressure level measured by the use of an instrument with the metering characteristics and A-weighting frequency response prescribed for sound level meters.

b. Combination of vehicles shall mean any device consisting of a motor vehicle and one or more trailers drawn by such motor vehicle.

c. Sound pressure level shall mean twenty times the logarithm to the base ten of the ratio of the root mean squared pressure of a sound to a reference pressure of twenty micropascals. The unit applied to this measure shall be the decibel (dB).

2. This section shall apply to the total sound level emitted from a motor vehicle or a combination of vehicles.

3. Unlawful acts.

a. It shall be unlawful for any person to operate or cause to be operated on a public highway any motor vehicle or combination of vehicles with a maximum gross weight in excess of ten thousand pounds, at any time, under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the applicable A-weighted sound level set forth in table I. The maximum allowable sound levels in table I are based on a sound level measured at, or adjusted to, a distance of fifty feet from the center of the lane in which the motor vehicle is traveling.

TABLE I

MAXIMUM ALLOWABLE

A-WEIGHTED SOUND LEVELS

MAXIMUM SPEED LIMIT	
35 miles per hour	over 35

OR LESS	MILES PER HOUR
86DB (A)	90 DB (A)

b. In addition, it shall be unlawful for any person to operate or cause to be operated on a public highway any motor vehicle or combination of vehicles with a maximum gross weight in excess of ten thousand pounds and equipped with an engine speed governor, which generates an A-weighted sound level in excess of eighty-eight dB(A) measured at, or adjusted to, a distance of fifty feet from the longitudinal centerline of the vehicle, when the engine of such vehicle is accelerated from idle with a wide open throttle to governed speed with the vehicle stationary, transmission in neutral and clutch engaged.

c. It shall be unlawful for any person to operate or cause to be operated on a public highway any motor vehicle or combination of vehicles, except motorcycles, with a maximum gross weight of ten thousand pounds or less, at any time, under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the applicable A-weighted sound level set forth in table II. The maximum allowable sound levels in table II are based on a sound level measured at, or adjusted to, a distance of fifty feet from the center of the lane in which the motor vehicle is traveling:

TABLE II

MAXIMUM ALLOWABLE

A-WEIGHTED SOUND LEVELS

MAXIMUM SPEED LIMIT

35 miles per hour OR LESS	over 35 MILES PER HOUR
76 DB(A)	82 DB(A)

d. It shall be unlawful for any person to operate or cause to be operated on a public highway any motorcycle, at any time, under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the applicable A-weighted sound level set forth in table III. The maximum allowable sound levels in table III are based on a sound level measured at, or adjusted to, a distance of fifty feet from

the center of the lane in which the motorcycle is traveling.

TABLE III

MAXIMUM ALLOWABLE

A-WEIGHTED SOUND LEVELS

MAXIMUM SPEED LIMIT

35 miles per hour OR LESS	over 35 MILES PER HOUR
82 DB(A)	86 DB(A)

4. The commissioner of environmental conservation shall promulgate regulations establishing the measurement procedures and instrumentation to be utilized in the enforcement of this section.

a. These procedures shall allow, to the extent feasible, motor vehicle sound measurements to be accomplished in reasonably confined areas such as residential areas of urban cities, and may provide for sound measurement at distances other than fifty feet and in the vicinity of sound reflecting surfaces.

b. The regulations shall take into consideration recognized scientific and professional standards for the measurement of vehicular sound levels.

5. The provisions of this section shall not apply to vehicles and implements or combinations thereof used solely for farm purposes, nor to authorized emergency vehicles.

6. Nothing in this section shall be construed as limiting or precluding the enforcement of equipment requirements or any other provisions of law relating to motor vehicle noise.

7. At intervals of not more than two years, the commissioner of environmental conservation shall report to the governor and the legislature on the current state of the art of motor vehicle sound level limitations and recommend changes as necessary.

ARTICLE 11

CIVIL LIABILITY

Section 388. Negligence in use or operation of vehicle attributable to owner.

§ 388. Negligence in use or operation of vehicle attributable to owner.

1. Every owner of a vehicle used or operated in this state shall be liable and responsible for death or injuries to person or property resulting from negligence in the use or operation of such vehicle, in the business of such owner or otherwise, by any person using or operating the same with the permission, express or implied, of such owner. Whenever any vehicles as hereinafter defined shall be used in combination with one another, by attachment or tow, the person using or operating any one vehicle shall, for the purposes of this section, be deemed to be using or operating each vehicle in the combination, and the owners thereof shall be jointly and severally liable hereunder.

2. As used in this section, "vehicle" means a "motor vehicle", as defined in section one hundred twenty-five of this chapter, except fire and police vehicles, self-propelled combines, self-propelled corn and hay harvesting machines and tractors used exclusively for agricultural purposes, and shall also include "semitrailer" and "trailer" as defined in article one of this chapter, whether or not such vehicles are used or operated upon a public highway; provided, however, that for purposes of paragraph two of subdivision (f) of section three thousand four hundred twenty of the insurance law, the term "motor vehicle" shall include fire vehicles, as defined in section one hundred fifteen-a of this chapter, and police vehicles, as defined in section one hundred thirty-two-a of this chapter. For the purpose of this section, self-propelled caterpillar or crawler-type equipment while being operated on the contract site, shall not be defined as motor vehicles.

3. As used in this section, "owner" shall be as defined in section one

hundred twenty-eight of this chapter and their liability under this section shall be joint and several. If a vehicle be sold under a contract of sale which reserves a security interest in the vehicle in favor of the vendor, such vendor or his assignee shall not, after delivery of such vehicle, be deemed an owner within the provisions of this section, but the vendee, or his assignee, receiving possession thereof, shall be deemed such owner notwithstanding the terms of such contract, until the vendor or his assignee shall retake possession of such vehicle. A secured party in whose favor there is a security interest in any vehicle out of his possession, shall not be deemed an owner within the provisions of this section.

4. All bonds executed by or policies of insurance issued to the owner of any vehicle subject to the provisions of this section shall contain a provision for indemnity or security against the liability and responsibility provided in this section; but, except as provided in paragraphs one and two of subsection (g) of section three thousand four hundred twenty of the insurance law, this provision shall not be construed as requiring that such a policy include insurance against any liability of the insured, being an individual, for death of or injuries to his or her spouse or for injury to property of his or her spouse, where the injured spouse, to be entitled to recover, must prove the culpable conduct of the insured spouse.

ARTICLE 12

OTHER PROVISIONS

Section.390. Inspection of motor vehicles and motorcycles.
391. Rates of toll on motor vehicles.
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§ 390. Inspection of motor vehicles and motorcycles. The superintendent of state police shall cause inspection to be made of the motor vehicles and motorcycles operating on the public highways to detect inadequacy of equipment, overloading and other violations of law governing the use of the public highways by motor vehicles and motorcycles.

§ 391. Rates of toll on motor vehicles. Where a different rate is not otherwise prescribed or permitted by law, any person or corporation maintaining a plank road, turnpike road or bridge and authorized, or which shall be hereafter authorized, to receive tolls for the passage of motor vehicles over the same, may charge and receive for each and every motor vehicle propelled by any power other than animal power, passing over the same, a toll rate not greater than the maximum rate allowed by law to be charged and received for the passage of a vehicle drawn over such road or bridge by two animals, provided that for such motor vehicles designed to carry only two persons the rate of toll charged or received shall not exceed the maximum rate allowed by law to be charged and received for the passage of a vehicle drawn over such road or bridge, without a load, by a single animal.

§ 392. False statements, alteration of records or substitution in connection with any examination. Any person knowingly making a false statement in an application for any document issued by the commissioner or in any proof or statement in writing in connection with such an application, or who shall deceive or substitute or cause another to deceive or substitute in connection with any examination hereunder, or who shall wilfully alter a number plate (except for restoration purposes pursuant to schedule G of subdivision seven of section four hundred one of this chapter), or make a material alteration on any document issued pursuant to this chapter, or unlawfully use a validating device on a certificate of registration, license or any other form, shall be guilty of a misdemeanor. A person who operates a motor vehicle upon the public highway displaying or using any document that he or she knows has been obtained in violation of this section, shall be guilty of a misdemeanor. Nothing contained in this section shall prohibit the imposition of a charge of any other offense set forth in this chapter or any other provision of law for any acts arising out of the same incident.

§ 392-a. Sale or purchase of stolen, false or fraudulent license, identification card, certificate of registration, or number plate. A person who knowingly sells or offers to sell or buys or offers to buy a false, fraudulent or stolen license, identification card, certificate of registration or number plate, shall be guilty of a misdemeanor as a first offense and a class E felony as a second or subsequent offense committed within ten years of the prior offense.

§ 392-b. Powers of motor vehicle investigators. Investigators of the department of motor vehicles during the course of and actual performance of their official duties shall have all the powers of peace officers, as set forth in section 2.20 of the criminal procedure law.

§ 393. Measurement and weight of vehicles; responsibility for damages. Any peace officer in this state, acting pursuant to his special duties,

police officer or employee of the department of transportation, having reason to believe that any vehicle registered under the provisions of subdivision seven or eight of section four hundred one or described in section three hundred eighty-five of this chapter or the load thereon is unlawful is authorized to stop, measure and weigh the same on any public highway by means of portable or stationary measures and scales. Any peace officer in this state, acting pursuant to his special duties, or police officer may require that such vehicle shall be driven to the nearest scales in the event such scales are within three miles, and if he finds that such vehicle is loaded in violation of the provisions of said subdivision seven or eight of section four hundred one or section three hundred eighty-five, he shall cause the excess load to be removed from such vehicle; and all material or goods so removed shall be removed and cared for by the owner or operator of such vehicle at the risk of such owner or operator of such vehicle; provided further that the owner and operator of any vehicle unlawfully operated or moved on any highway, or over any bridge or culvert in any highway, and the carrier in the conduct of whose business such vehicle is being operated at the time of violation, if such vehicle is then being operated in the conduct of business of a motor carrier, shall be jointly and severally responsible for all damages to such highway, bridge or culvert, as the result of the movement thereover of any vehicle, the weight or size of which violates any of the provisions of said section three hundred eighty-five. The department of transportation, in the case of highways, bridges or culverts under its jurisdiction, and the authority having jurisdiction thereover, in the case of highways, bridges or culverts situated within municipalities, may bring such civil action or actions against the owner and operator of the vehicle or the motor carrier as may be necessary to recover the damages sustained; and all funds recovered by the department of transportation in behalf of the state shall be paid to the state treasurer to the credit of the fund available for the maintenance and repair of state highways, and funds recovered in behalf of a municipality shall be applied in improving the highways, bridges and culverts in such municipality.

§ 393-a. Inspection of commercial motor vehicles exceeding ten

thousand pounds manufacturers' gross vehicle weight rating. Any police officer having lawfully stopped a commercial motor vehicle with a manufacturers' gross vehicle weight rating in excess of ten thousand pounds for the purpose of conducting a motor carrier safety inspection may, when necessary to insure the safety of the officer, the vehicle occupants and the motoring public, require that the vehicle be driven to the nearest safe inspection site designated by such officer. Such location designated by the police officer shall not exceed a distance of five miles from the place where the vehicle was stopped.

§ 394. Drivers' schools. 1. Definitions. As used in this section:

(a) "Drivers' school" means the business of giving instruction for hire in driving motor vehicles or motorcycles.

(b) "Person" includes an individual, firm, corporation, partnership, joint venture, joint adventurer or association.

(c) "Place of business" means a designated location at which the business of a drivers' school is transacted and its records kept.

2. License. No person shall engage in the business of conducting a drivers' school without being the holder of a license for such purpose issued by the commissioner. An application for license under this section shall be filed with the commissioner and shall contain such information as he shall prescribe. Every such application shall be accompanied by an application fee of fifty dollars, which shall in no event be refunded. If an application is approved by the commissioner, the applicant upon the payment of an additional fee of five dollars for each month or fraction thereof from the date of issuance to the date of expiration prescribed by the commissioner, but in no event more than a total of fifty dollars, shall be granted a license which shall be valid until such date of expiration. The annual fee for renewal thereof shall be fifty dollars. Upon renewal, the commissioner may in his discretion issue a license which shall be valid for up to a two-year period. The fee for a two-year renewal shall be one hundred dollars. Fees for renewal of a license valid for a period of less than two years shall be prorated on a quarterly basis and any portion of a quarter shall be considered a quarter. The commissioner shall issue a license certificate

to each licensee, which certificate shall be conspicuously displayed in the place of business of the licensee. In case of the loss, mutilation or destruction of a license certificate, the commissioner shall issue a duplicate thereof upon proof of the facts and payment of a fee of two dollars.

3. Place of business. (a) No license shall be issued, nor shall any renewal of a license be made, for conducting a drivers' school in a city having a population of two hundred fifty thousand or more according to the latest federal census, unless the place of business of such school is located in a store, office or portion of a building devoted exclusively to nonresidential use.

(b) No license shall be issued, nor shall any renewal of a license be made for conducting a drivers' school in a city having a population of fifty thousand or more according to the latest federal census, if the place of business of such school or branch thereof, is within fifteen hundred feet of a building owned or leased by the state, the county or a city, in which motor vehicle registrations or licenses to drive motor vehicles are issued to the public. The said distance of fifteen hundred feet shall be measured along the public streets by the nearest route from such place of business, or branch thereof, to such building.

4. Refusal to issue a license. The commissioner may deny the application of any person for a license, if, in his discretion, he determines that:

(a) Such applicant has made a material false statement or concealed a material fact in connection with his application;

(b) Such applicant, any officer, director, stockholder or partner, or any other person directly or indirectly interested in the business was the former holder, or was an officer, director, stockholder or partner, in a corporation or partnership which was the former holder of a drivers' school license which was revoked or suspended by the commissioner;

(c) Such applicant or any officer, director, stockholder, partner, employee, or any other person directly or indirectly interested in the business has been convicted of a felony, or of any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude;

(d) Such applicant has failed to furnish satisfactory evidence of good character, reputation and fitness;

(e) Such applicant does not have a place of business as required by this section;

(f) Such applicant is not the true owner of the drivers' school.

5. Suspension, revocation and refusal to renew a license. The commissioner, or any employee of the department of motor vehicles deputized by him, may suspend or revoke a license or refuse to issue a renewal thereof for any of the following causes:

(a) the conviction of the licensee or any partner, officer, agent or employee of such licensee, of a felony, or of any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude; (b) where the licensee has made a material false statement or concealed a material fact in connection with his application for a license or a renewal thereof; (c) where the licensee has failed to comply with any of the provisions of this section or any of the rules and regulations of the commissioner made pursuant thereto: (d) where the licensee or any partner, officer, agent or employee of such licensee has been guilty of fraud or fraudulent practices in relation to the business conducted under the license, or guilty of inducing another to resort to fraud or fraudulent practices in relation to securing for himself or another a license to drive a motor vehicle or motorcycle. The term "fraudulent practices" as used in this section shall include, but shall not be limited to, any conduct or representation on the part of the licensee, or any partner, officer, agent, or employee of a licensee, tending to induce another or to give the impression that a license to operate a motor vehicle or motorcycle, or any other license, registration or service granted by the commissioner, may be obtained by any means other than the ones prescribed by law, or furnishing or obtaining the same by illegal or improper means, or requesting, accepting, exacting or collecting money for such purpose.

Notwithstanding the renewal of a license, the commissioner may revoke or suspend such license for causes and violations, as prescribed by this section, occurring during the two license periods immediately preceding the renewal of such license.

The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending a license to conduct a driving school in accordance with the provisions of this section, may by order require the licensee to pay to the people of this state a penalty in a sum not exceeding five hundred dollars for each violation, and upon the failure of such licensee to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such licensee, unless such order is stayed by a court of competent jurisdiction or in accordance with the provisions of article three-A of this chapter, the commissioner may revoke the license of such licensee or may suspend the same for such period as he may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action, and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the licensee is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

6. Hearing. Except where a refusal to issue a license or renewal, or revocation or suspension, is based solely on a court conviction or convictions, a licensee or applicant shall have an opportunity to be heard, such hearing to be held at such time and place as the commissioner shall prescribe. Provided, however, upon a written notice of temporary suspension delivered by certified mail to the licensee, a license may be temporarily suspended pending a hearing. Any such notice of temporary suspension shall provide that the suspension is effective seventy-two hours after mailing of such notice and shall provide that a hearing be scheduled within ten days after the effective date of the

temporary suspension.

A licensee or applicant entitled to a hearing shall be given due notice thereof. The sending of a notice of a hearing by registered mail to the last known address of a licensee or applicant ten days prior to the date of the hearing shall be deemed due notice. The commissioner, or the person deputized by him to conduct a hearing, shall have power to subpoena witnesses, administer oaths to witnesses and take testimony of any person or cause his deposition to be taken. A subpoena issued under this section shall be regulated by the civil practice law and rules. Officers or employees in the department of taxation and finance, making service of such subpoenas are not entitled to fees and mileage.

7. Supervision; records. The commissioner shall approve the form of contract used by all licensees, and may prescribe reasonable rules governing the terms which may be included in such contracts. Every licensee shall keep such records as the commissioner may by regulation require. The records of the licensee shall be open to the inspection of the commissioner or his representatives at all times during reasonable business hours. The commissioner shall prescribe such reasonable rules and regulations as he may deem necessary to carry out the provisions of this section.

7-a. Certification of driving time. The commissioner shall establish by regulation a certification process by drivers' schools of the amount of time a holder of a learner's permit has spent operating a motor vehicle or motorcycle while under the immediate supervision of a driving instructor holding an instructor's certificate issued pursuant to subdivision eight of this section. A certificate issued pursuant to this section shall be deemed to be proof of all or a portion of the supervised driving experience required under certification pursuant to paragraph (d) of subdivision two of section five hundred two of this chapter.

8. Instructors. (a) No person shall be employed by a licensee as a driving instructor, nor shall any person give instructions for hire in the operation of motor vehicles or motorcycles unless such person is the

holder of a driver's license valid for operation in this state and an instructor's certificate issued by the commissioner. Such certificates shall be issued only to persons of good reputation and moral character, whose driving records, as determined by the commissioner, qualify them as instructors in the operation of motor vehicles or motorcycles. An application for an instructor's certificate must identify the driving school or schools in which the applicant is to act as an instructor and shall contain such other information as the commissioner shall prescribe. Each such application shall be accompanied by a fee of ten dollars which shall in no event be refunded. Such certificate shall be issued without payment of any additional fee and shall be limited to use in connection with the business of the specified driving school or schools. Such certificate shall be valid until the date of expiration prescribed by the commissioner and may be validated for use in connection with the business of other driving schools without payment of any additional fee. The fee for annual renewal thereof shall be ten dollars. Upon renewal, the commissioner may, in his discretion, issue a renewal which shall be valid for up to a two-year period. The fee for a two-year renewal shall be twenty dollars. Fees for renewal of a certificate valid for a period of less than two years shall be prorated on a quarterly basis and any portion of a quarter shall be considered a quarter.

(b) The commissioner or any employee of the department of motor vehicles deputized by him, may suspend or revoke an instructor's certificate for any of the following causes: (1) expiration, suspension or revocation of the required license of such instructor; (2) the commissioner has determined that the driving record of such instructor indicates that such instructor does not possess the qualities or competence necessary or desirable for a driving instructor; (3) such instructor has failed to comply with the rules and regulations prescribed by the commissioner; (4) conviction of such instructor of a felony or any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude; and (5) such instructor has been guilty of fraud or fraudulent practices.

8-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund.

9. Employees. A licensee may employ, in connection with a driving school a person who has been convicted of a crime, in accordance with article twenty-three-A of the correction law.

10. Judicial review. The action of the commissioner in refusing to issue or renew, or revoking or suspending a license or instructor's certificate may be reviewed in a proceeding under article seventy-eight of the civil practice law and rules.

11. Penalties. (a) A violation of any of the provisions of this section shall constitute a misdemeanor.

(b) During the pendency of any criminal prosecution based upon a violation of this section or if any such prosecution has been terminated and the defendant has been sentenced to pay a fine as provided in this chapter, no proceeding to recover civil penalties under this section shall be commenced and any such pending proceeding shall be stayed.

12. Unlicensed operation; procedures and penalties. (a) The commissioner or any person deputized by him shall hear and determine any allegation that a person has operated a drivers' school without being licensed as required by subdivision two of this section. Upon a determination that a person has so operated, the commissioner or person deputized by him shall assess civil penalties as provided in paragraphs (b) and (c) of this subdivision.

(b) Except as provided in paragraph (c) of this subdivision, any person who operates a drivers' school without being licensed shall be required to pay to the people of this state a civil penalty in the sum of one thousand dollars. However, any such person against whom such penalty has been assessed may avoid all but five hundred dollars of such penalty by obtaining a license as required by this section, provided that application for such license is made not more than ten days after the imposition of such penalty.

(c) (i) Any person who operates a drivers' school while his drivers' school license is revoked or suspended, shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided.

(ii) Any person who operates a drivers' school without being licensed as required by subdivision two of this section who has previously had a civil penalty assessed for unlicensed operation shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided.

(d) Civil penalties assessed under this section shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action, and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the licensee is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

§ 395. Certain private service bureaus to be licensed. Except as otherwise provided herein, no person, firm, association or corporation shall, engage in the business of assisting for hire in securing licenses to drive motor vehicles or registrations or titles of motor vehicles, nor shall any person, firm, association or corporation for compensation give instructions as to procuring licenses to drive motor vehicles or registrations or titles of motor vehicles, without being the holder of a license for such purpose issued by the commissioner of motor vehicles. An applicant for a license shall furnish the commissioner with such information and such references as to moral character as he may reasonably require. Every application shall be accompanied by a fee of twenty-five dollars, which shall be regarded as an application fee and shall in no event be refunded. If an application be approved by the commissioner, the applicant upon the payment of an additional fee of twenty-five dollars shall be granted a license which shall expire on the thirtieth day of June following the date of its issuance. The commissioner shall issue a license certificate to each licensee which

certificate shall be conspicuously displayed in the place of business of the licensee, or, if the licensee has no place of business, such certificates shall be exhibited at the request of any person. In case of the loss, mutilation or destruction of a certificate, the commissioner shall issue a duplicate upon proof of the facts and the payment of a fee of one dollar. The refusal to issue a license may be reviewed by a proceeding under article seventy-eight of the civil practice law and rules. Such license shall be renewed annually upon the payment of a fee of twenty-five dollars, such renewal to take effect on the first day of July in each year. Upon renewal, the commissioner may, in his discretion, issue a license which shall be valid for a two year period. The fee for any such two year renewal shall be fifty dollars.

No license shall be issued under this section nor shall any renewal of a license issued under this section be made for conducting business in a city having a population of fifty thousand or more, according to the latest federal census if the place of business of the licensee, or branch thereof, is within fifteen hundred feet of a building, owned or leased by the state, a county or a city, in which motor vehicle registrations or licenses to drive motor vehicles are issued to the public. The said distance of fifteen hundred feet shall be measured along the public streets by the nearest route from such place of business, or branch thereof, to such building. The provisions of this paragraph shall not apply to a holder of a certificate of registration issued pursuant to section four hundred fifteen of this chapter.

A licensee shall be subject to such reasonable regulations concerning the business conducted under his license as the commissioner may prescribe and he shall permit the commissioner, or his representatives, to inspect his place of business on any business day and shall furnish to the commissioner, or his representative, such information concerning the conduct of the business as may be reasonably required.

The provisions of subdivisions five and six of section three hundred ninety-four of this chapter shall be applicable with respect to this section.

The holder of a license issued pursuant to section three hundred ninety-four of this chapter or the holder of a certificate of registration issued pursuant to section four hundred fifteen of this chapter shall not be required to secure a license under this section in order to conduct a business for which a license is required by this section but any such licensee, or registrant, who shall conduct such business, shall be subject to the same visitation and regulation by the commissioner with reference to such business as provided in this section with respect to a licensee under this section.

As used in this section the phrase "licenses to drive motor vehicles" includes the term "learners' permits".

A violation of any of the provisions of this section shall constitute a misdemeanor.

§ 396. Use of state and other seals and insignia on private vehicles prohibited. 1. A person who shall use any seal, device of arms, sign, lettering or insignia of the United States, or of this state or political subdivision thereof, on any vehicle not owned or used by the United States, this state or by such political subdivision thereof, which such seal, device of arms, sign, lettering or insignia represents, is guilty of a traffic infraction.

2. A person who shall use or display the words "Police Department," "Police" or any sign, lettering or device with the letters "P.D.," or any other matter indicating ownership, possession or use by a police department, on any motor vehicle or motor cycle not used by a duly organized police department within this state and not actually operated or used by a member or an employee of a duly organized police department on any public highway, is guilty of a traffic infraction.

3. A person who shall use or display the words "Fire Department," "Fire" or any sign, lettering or device with the letters "F.D.N.Y.," or any other matter indicating ownership, possession or use by a fire department, on any motor vehicle or motor cycle not used by a duly

organized fire department within this state and not actually operated or used by a member or an employee of a duly organized fire department on any public highway, is guilty of a traffic infraction.

§ 397. Equipping motor vehicles with radio receiving sets capable of receiving signals on the frequencies allocated for police use. A person, not a police officer or peace officer, acting pursuant to his special duties, who equips a motor vehicle with a radio receiving set capable of receiving signals on the frequencies allocated for police use or knowingly uses a motor vehicle so equipped or who in any way knowingly interferes with the transmission of radio messages by the police without having first secured a permit so to do from the person authorized to issue such a permit by the local governing body or board of the city, town or village in which such person resides, or where such person resides outside of a city or village in a county having a county police department by the board of supervisors of such county, is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or imprisonment not exceeding six months, or both. Nothing in this section contained shall be construed to apply to any person who holds a valid amateur radio operator's license issued by the federal communications commission and who operates a duly licensed portable mobile transmitter and in connection therewith a receiver or receiving set on frequencies exclusively allocated by the federal communications commission to duly licensed radio amateurs.

§ 397-a. Radar detectors and laser detectors prohibited. 1. No radar detector or laser detector shall be used in any motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds or in any commercial vehicle with a gross vehicle weight rating of more than ten thousand pounds. The presence in such vehicle of a radar detector or laser detector connected to a power source and in an operable condition is presumptive evidence of its use by any person operating such vehicle. Such presumption shall be rebutted by any credible and reliable evidence which tends to show that such radar detector or laser detector was not in use.

2. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a radar detector or laser detector, unless otherwise provided by law.

3. A violation of the provisions of this section shall constitute a traffic infraction punishable by a fine of not less than twenty-five nor more than one hundred dollars.

§ 397-b. Vehicle leases that are not sales or security interests. Notwithstanding any other provision of law, in the case of motor vehicles or trailers which are not vehicles or trailers leased or used primarily for personal, family, or household purposes, a transaction does not create a conditional sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

§ 397-c. For-hire motor vehicle safety program. The commissioner shall evaluate and approve any for-hire motor vehicle safety program created pursuant to section two thousand three hundred fifty-three of the insurance law within sixty days of the effective date of such section.

ARTICLE 12-A

MOTOR VEHICLE REPAIR SHOP REGISTRATION ACT

Section 398. Title.
398-a. Statement of purpose.
398-b. Definitions.
398-c. Registration required; application; fees and issuance of certificate of registration.
398-d. Motor vehicle repair shop requirements.
398-e. Suspension, revocation or refusal to issue registration; civil penalty; restitution; surrender of certificate of

registration.
398-f. Hearings; review board; appeals; judicial review.
398-g. Powers of the commissioner.
398-h. Separability clause.
398-i. Unregistered operation; procedures and penalties.
398-k. Improper display of signs.

§ 398. Title. This act shall be known as the "Motor Vehicle Repair Shop Registration Act."

§ 398-a. Statement of purpose. The purposes of this article are to further highway safety by promoting the proper and efficient repair of malfunctioning or disabled motor vehicles and to protect the consumers of this state from dishonest, deceptive and fraudulent practices in the repair of such motor vehicles. These purposes will be accomplished by the enactment of legislation which require the registration of those engaged in the business of repairing malfunctioning or disabled motor vehicles and to exclude from that business those persons who engage in dishonest or fraudulent practice or who otherwise demonstrate unfitness for that business. That further, the purpose of this article is to protect the motoring public from improper repairs made to its vehicles to set standards for quality repairs to be made to motor vehicles for fair and reasonable fees and to eliminate unqualified automotive repair shops from engaging in the business of automotive repair to malfunctioning or disabled vehicles.

§ 398-b. Definitions. 1. For the purposes of this article, the term "motor vehicle" shall mean motor vehicles as defined by section one hundred twenty-five and trailers as defined by section one hundred fifty-six of this chapter.

2. As used in this article the term "motor vehicle repair shop" means any person who, for compensation, is wholly or partially engaged in the business of repairing or diagnosing motor vehicle malfunctions or

repairing motor vehicle bodies, fenders or other components damaged by accident or otherwise, except that such term does not include:

(a) an employee of a motor vehicle repair shop who engages in the business of repairing motor vehicles solely by reason of his employment;

(b) any person who is solely engaged in the business of repairing the motor vehicles of a single commercial or industrial establishment, or of the federal, state or a local government or any agency thereof; or

(c) any person whose activities consist solely of fueling, changing oil, water, batteries or tires, replacing fan belts, air filters or oil filters, installing windshield wiper blades or light bulbs, or such other minor repair and servicing functions as the commissioner shall by rule prescribe; or

(d) any person solely engaged in the business of repairing farm or road building machines, or such other utility vehicles as the commissioner may by regulation designate.

The term "motor vehicle repair shop" shall also include any shop, drive-in station, or garage operated by any person, firm, corporation or association at which motor vehicles are inspected for the purposes of appraising, evaluating or estimating the extent or value of motor vehicle damage or the necessity or cost of motor vehicle repairs.

§ 398-c. Registration required; application; fees and issuance of certificate of registration. 1. Registration required. On and after the first day of November, nineteen hundred seventy-five, no person shall operate, or cause to have operated, a motor vehicle repair shop, unless such motor vehicle repair shop is registered in accordance with the provisions of this article and unless such registration is currently valid. The commissioner may request the attorney general to commence an action to enjoin the operation of any motor vehicle repair shop in violation of this subdivision. A violation of this subdivision shall be heard and determined and shall be subject to penalties as provided in section three hundred ninety-eight-i of this chapter.

2. Application. An application for a certificate of registration under this section shall be filed with the commissioner, in such form and

detail as the commissioner shall prescribe, setting forth:

(a) the name and the residence address of the applicant; if an individual, the name under which he intends to conduct business; if a co-partnership, the name and residence address of each member thereof, and the name under which the business is to be conducted; if a corporation where stock is not sold to the public on a stock exchange or over-the-counter market, the name of the corporation, the name and residence address of each of the officers, directors and stockholders of the corporation holding more than ten percent of the outstanding stock and the name under which the business is to be conducted if different from the name of the corporation; if a corporation whose stock is sold to the public on a stock exchange or over-the-counter market, the name and business address of the corporation, the name under which the business is to be conducted if different from the corporate name and a separate statement that the corporation is either registered in New York or is authorized to do business in this state.

(a-1) appropriate certification or documentation from the municipality where the repair shop is located that the facility is in compliance with applicable zoning and planning regulations, fire regulations and building codes. It shall be the responsibility of the applicant to provide such documentation for the commissioner. The commissioner may waive this requirement for applicants from municipalities without such codes or regulations.

(b) the place or places, including the complete address or addresses, where the business is to be conducted.

(c) on and after January first, nineteen hundred ninety-one, an indication as to whether the applicant services motor vehicle air-conditioning systems and, if so, whether the applicant has purchased approved motor vehicle refrigerant recycling equipment or approved motor vehicle refrigerant recapturing equipment in accordance with section 38-0107 of the environmental conservation law. Applicants who indicate that they have purchased approved motor vehicle refrigerant recycling equipment must submit along with their application either a manufacturer's certificate issued upon purchase or an invoice with proof of payment. All such documents shall contain the name and address of the repair shop and manufacturer, the date purchased, and the serial numbers of the units acquired.

(d) such further information as the commissioner may by rule prescribe.

The commissioner may require the applicant to appear at such time and place as may be designated by the commissioner for examination to enable him to determine the accuracy of the facts set forth in the written application, either for initial registration or renewal thereof. Where the business is conducted under franchise, lease or other similar arrangement, the commissioner, in his discretion, may require the application to be submitted by the franchise holder, lessee or other person actually responsible for conducting the business. Every application under this section shall be affirmed as true by the applicant.

3. Fees and issuance of certificate of registration.

(a) Every original application shall be accompanied by an application fee of ten dollars, which shall in no event be refunded. If an application is approved by the commissioner, upon payment by the applicant of an additional fee of one hundred fifty dollars for each place of business, the applicant shall be granted a certificate of registration for each place of business, which certificate or certificates shall be valid for a period of two years. The commissioner may, however, in his discretion, issue such certificates of registration on a staggered expiration basis, in which event the fees set forth herein shall be prorated on a monthly basis. In the event a certificate of registration is issued on a staggered expiration basis, it shall expire on the date fixed by the commissioner. The biennial fee for renewal of any certificate of registration issued pursuant to this section shall be one hundred fifty dollars. The commissioner shall issue a certificate of registration to each applicant pursuant to the provisions of this article, which certificate shall be conspicuously displayed in the place of business of the registrant for which such registration is issued. In the case of loss, mutilation or destruction of a certificate of registration, the commissioner shall upon application issue a duplicate certificate thereof upon proof of the facts.

(b) If a certificate of registration under this section shall be

issued in the names of two or more persons as partners and a change occurs in the membership of such partnership, the certificate of registration shall not expire thereupon so long as any one of the persons named in such certificate is a member of the partnership or carries on the business of the partnership as surviving member of the partnership; provided, however, that when any such change occurs and the certificate of registration does not expire, the partners or surviving member after such change shall forthwith file with the commissioner (i) a statement regarding the change in such form and giving such information as the commissioner shall require or, where the change involves the addition of one or more new partners, (ii) a new application as provided in subdivision two of this section. Such new certificate of registration shall expire on the expiration date of the one replaced.

(c) If a certificate of registration under this section shall be issued and, subsequent thereto, the business name of any such shop is changed, or in the event that the owners of a business incorporate said business with no change in the actual ownership and operation thereof, such owner or owners thereof shall forthwith file with the commissioner a statement regarding the change of name in such form and with such information as the commissioner shall require.

(d) Fees assessed under this section shall be paid to the commissioner for deposit to the general fund.

4. If an individual owner of a registered repair shop dies or is adjudged mentally incompetent, his executor or administrator or his committee may carry on the business by filing an amendment to the application for registration. Every corporation whose stock is not sold to the public on a stock exchange or over-the-counter market shall file an amendment to its application for registration if there is any change in its officers, stockholders who hold more than ten percent of the outstanding shares, or directors. Every repair shop shall file an amendment to its application for registration if it changes its location. Every such amendment shall be filed within thirty days of the event.

§ 398-d. Motor vehicle repair shop requirements. 1. All work done by a motor vehicle repair shop shall be recorded on an invoice and shall describe all service work done and parts supplied. If any used parts are supplied, the invoice shall clearly state that fact. If any component system installed is composed of new and used parts, such invoice shall clearly state that fact. If any body parts are supplied to a vehicle with a gross vehicle weight not in excess of eighteen thousand pounds, the invoice shall clearly state whether such parts were manufactured as original equipment parts for the vehicle, or were manufactured as non-original replacement parts or are used parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the motor vehicle repair shop. For the purposes of insuring that the repairs described on the work invoice have been performed, every customer and his representative or a representative of an insurance company where such company has paid or is liable to pay a claim for damage to such customer's motor vehicle shall have a right to inspect the repaired motor vehicle. Such right of inspection shall also include the right to inspect all replaced parts and components thereof, except warranty or exchange parts. Provided, however, the exception for warranty or exchange parts from the right of inspection shall not apply to replacement inflatable restraint systems. Any such inspection by an insurer shall be made in a manner consistent with the requirements of sections two thousand six hundred one and three thousand four hundred eleven of the insurance law. The motor vehicle repair shop shall make available to the customer, upon timely written demand, or for such work authorized over the telephone, shall keep until the customer's motor vehicle is retrieved, all replaced parts, components or equipment excepting any parts, components or equipment normally sold on an exchange basis or subject to a warranty.

2. Upon the request of any customer, a motor vehicle repair shop shall make an estimate in writing of the parts and labor necessary for a specific job and shall not charge for work done or parts supplied in excess of the estimate without the consent of such customer. The motor vehicle repair shop may charge a reasonable fee for making an estimate. If any body parts are included in the estimate for a vehicle with a gross vehicle weight not in excess of eighteen thousand pounds, the estimate shall clearly state whether such parts were manufactured as

original equipment parts for the vehicle, or were manufactured as non-original replacement parts or are used parts.

3. Each motor vehicle repair shop shall maintain such records as are required by the regulations of the commissioner and such records shall be available for inspection by the commissioner or his designee during all business hours. Where a motor vehicle repair shop changes its name or location, notification thereof shall be given to the commissioner not more than ten days therefrom.

4. (a) Every motor vehicle repair shop shall display in a conspicuous place in such shop a sign stating: PURSUANT TO SECTION 2610 OF THE INSURANCE LAW AN INSURANCE COMPANY MAY NOT REQUIRE THAT REPAIRS BE MADE TO A MOTOR VEHICLE IN A PARTICULAR PLACE OR REPAIR SHOP. YOU HAVE A RIGHT TO HAVE YOUR AUTOMOBILE REPAIRED IN THE SHOP OF YOUR CHOICE.

(b) Such sign shall be made of a durable material capable of withstanding outdoor climatic conditions, with the letters being at least two inches high and having a stroke of at least one-half inch. The letters and background shall be of contrasting colors.

5. Every person who shall write any auto body repair estimate on behalf of a motor vehicle repair shop, whether registered or not, must hold a valid estimator's license for such purpose issued by the commissioner. The form and manner of applying for such license shall be prescribed by regulation to be promulgated by the commissioner. The commissioner shall in the commissioner's discretion establish criteria for the issuing of such license. Each application for the license required hereunder shall be accompanied by an application fee of twenty-five dollars which shall in no event be refunded. If an application is approved by the commissioner, upon payment by the applicant of the additional fee of one hundred fifty dollars, the applicant shall be granted such license which shall be valid for a period of three years. The renewal fee for any license issued pursuant to this subdivision shall be one hundred fifty dollars.

5-a. All the provisions of section three hundred ninety-eight-f of article twelve-A of this chapter shall apply to the provisions of

subdivision five of this section with the same force and effect as if the language of those provisions had been incorporated in full into subdivision five of this section and had expressly referred to the term collision estimator licensee, except that the term "certificate of registration" shall be read as "estimator's license" and the term "registrant" as "licensee".

6. (a) In addition to the requirements of subdivision one of this section, if an inflatable restraint system is replaced, the motor vehicle repair shop shall state on the repair invoice the name and tax identification number from whom such replacement inflatable restraint system was purchased. The vehicle repair shop shall, in the case of any salvaged inflatable restraint system installed, also state on the repair invoice the vehicle dismantler's registration number, the vehicle identification number of the vehicle from which the inflatable restraint system was salvaged and the part number of the salvaged inflatable restraint system. The insurer and the consumer shall receive a copy of the purchase invoice for such replacement inflatable restraint systems.

(b) An inflatable system which has been activated in a crash or stolen shall be replaced only with an inflatable restraint system newly manufactured for first-time use.

(c) Notwithstanding the provisions of paragraph (b) of this subdivision, an inflatable restraint system may be replaced by one salvaged and sold by a vehicle dismantler registered pursuant to section four hundred fifteen-a of this chapter, provided, however, that the salvaged inflatable restraint system has been sold in accordance with the provisions of section four hundred fifteen-c of this chapter.

(d) Notwithstanding any other provisions of law to the contrary, a consumer has the right to seek installation of a salvaged inflatable restraint system as provided in paragraph (c) of this subdivision, provided however, nothing shall require any facility to install a salvaged inflatable restraint system. A salvage installation shall only be done with the specific authorization of the customer. The invoice must prominently state, "Salvage inflatable restraint system." No other terms such as "used" or "as is" shall be used. The invoice must clearly state the terms of the warranty or guarantee, if given, or state "No warranty or guarantee given." A salvaged inflatable restraint system

must be of the exact same type as the unit with which the vehicle was originally equipped.

(e) On and after March first, nineteen hundred ninety-nine, in no case shall any inflatable restraint system be replaced with anything other than a newly manufactured inflatable restraint system or a salvaged inflatable restraint system certified according to standards established by a nationally recognized testing, engineering and research body as provided for in subdivision two of section four hundred fifteen-c of this chapter.

7. Each motor vehicle repair shop which either removes or installs inflatable restraint systems shall maintain a log book containing the following information: (a) the date of installation, (b) the vehicle identification number, license plate number, and make and model of the repaired vehicle, (c) the replacement inflatable restraint system's part number, (d) in the case of a salvaged inflatable restraint system, (1) the vehicle identification number of the vehicle from which the replacement inflatable restraint system was salvaged, and (2) the name, tax identification number, and registration number of the automobile dismantler from whom such salvaged inflatable restraint system was purchased, (e) in the case of a new replacement inflatable restraint system, the name and tax identification number of the supplier. Such records shall be maintained in a manner and form prescribed by the commissioner. Upon request of an agent of the commissioner or of any police officer and during its regular and usual business hours, the motor vehicle repair shop shall produce such records and permit said agent or police officer to examine them.

§ 398-e. Suspension, revocation or refusal to issue registration; civil penalty; restitution; surrender of certificate of registration. 1. Suspension, revocation or refusal to issue registration or license. The commissioner, or any person deputized by him, may deny the application of any person for a certificate of registration or estimator's license and may suspend or revoke the registration of any motor vehicle repair shop or any estimator's license issued pursuant to this article or refuse to issue a renewal thereof if he determines that such applicant, registrant or licensee:

(a) has made a material false statement or concealed a material fact in connection with his application;

(b) was the former holder of a certificate of registration issued hereunder which was revoked or suspended by the commissioner;

(c) was, or that any officer, director, partner or stockholder holding more than ten percent of the outstanding stock was an officer, director, partner or stockholder holding more than ten percent of the outstanding stock in a corporation or partnership, as the case may be, which was the former holder of a certificate of registration issued hereunder which was revoked or suspended by the commissioner;

(d) has failed to furnish satisfactory evidence of good character, reputation and fitness;

(e) does not have a place of business as required by this article;

(f) is not the true owner of the repair shop, except in the case of a franchise;

(g) has been guilty of fraud or fraudulent or deceptive practices;

(h) has been grossly negligent on two or more occasions within a period of two years in the performance of any repair or adjustment covered by this article, or has grossly overcharged on two or more occasions within a period of two years for such repair or adjustment;

(i) has wilfully failed to comply with any of the provisions of this article or the rules and regulations of the commissioner promulgated hereunder;

(j) has knowingly issued a false or misleading estimate;

(k) has engaged in a course of conduct which unreasonably impedes or delays a consumer's right to a fair recovery pursuant to the provisions of an automobile insurance policy, the insurance law or regulations issued by the superintendent of financial services governing the evaluation and adjustments of claims; or

(l) has wilfully violated paragraph (b) of subdivision thirty-one, subdivision thirty-one-a or subdivision thirty-one-b of section three hundred seventy-five of this chapter.

For the purposes of paragraphs (g), (h), (i), (j) and (k) of this subdivision, it shall be presumed that the actions of any employee of a motor vehicle repair shop shall be attributable to, and deemed to be the actions of, such motor vehicle repair shop.

2. Civil penalty; suspension for failure to pay. (a) The commissioner, or any person deputized by him, may, by order, require a registrant or an unregistered repair shop to pay to the people of this state a penalty as hereinafter provided. Such penalty may be imposed in addition to or in lieu of revoking or suspending the certificate of registration of a registrant in accordance with the provisions of this article, or such a penalty may be imposed upon a finding that a registrant or an unregistered repair shop: (i) has been grossly negligent in the performance of any repair or adjustment covered by this article; or (ii) has grossly overcharged for such repair or adjustment.

(b) Such penalty for a first violation shall be in a sum not exceeding seven hundred fifty dollars for each violation found to have been committed, and for a second or subsequent violation not arising out of the same incident both of which were committed within a period of thirty months, be in a sum of not more than one thousand dollars for each violation found to have been committed; provided, however, the penalty for each and any violation of paragraph (g) of subdivision one of this section found to have been committed shall be no less than three hundred and fifty dollars and no more than one thousand dollars, except that if a finding of financial loss has been made pursuant to subdivision three of this section, the amount of such penalty may be increased by the amount of financial loss so found.

(c) Upon the failure of a registrant or an unregistered repair shop to pay such penalty, or, where the order so permits, to make restitution as provided in subdivision three of this section, within thirty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such registrant or unregistered repair shop, unless such order is stayed as provided in subdivision three of section three hundred ninety-eight-f of this chapter, the commissioner may revoke the certificate of registration of such registrant or may suspend the same for such period as he may determine or may seek to recover unpaid civil penalties in a civil action in the name of the commissioner. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury.

(d) In addition, as an alternative to such civil action and provided

that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

3. Restitution; assessment. (a) Upon a determination that a registrant or an unregistered repair shop has done or failed to do any act for which suspension of the registrant's registration or a civil penalty against the registrant or unregistered repair shop could be imposed, the person making such determination may make a finding of financial loss to any complainant or complainants resulting from the actions of the registrant or unregistered repair shop. The person making such finding may provide that if the registrant or unregistered repair shop makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted in lieu of any suspension or civil penalty, or a specified portion thereof imposed upon the registrant or unregistered repair shop. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the registrant or unregistered repair shop, and (ii) is not a party to any litigation which is pending or which has gone to judgment in relation to the same matter in any civil court.

(b) The amount of financial loss which may be found and proposed as restitution shall be limited to an amount necessary to repair the vehicle or vehicles in question and/or any amount of overcharge which may be found. Neither punitive nor incidental damages may be included in the finding of financial loss.

(c) If payment of restitution to the complainant is authorized in lieu of all or a portion of a suspension or civil penalty, in order for the registrant or unregistered repair shop to exercise the option to make such payment, such payment must be made by means of a certified check or money order payable to the complainant or complainants delivered to an

office of the department as directed by the commissioner or his agent within thirty days of the date of notice of suspension and/or civil penalty. Upon receipt of such certified check or money order, the department shall forward the same to the complainant or complainants. In the event that the registrant or unregistered repair shop should fail to make payment for restitution within such thirty days, but, at a later time, pays such civil penalty, the department shall deduct from such civil penalty payment the amount assessed for restitution, and shall mail a check for such amount to the complainant or complainants.

(d) If payment of restitution may be substituted in lieu of a civil penalty or portion of a civil penalty, and the registrant or unregistered repair shop does not exercise the option to make such payment, the civil penalty becomes due as provided in subdivision two of this section and the provisions of that subdivision relating to suspension of registration and recovery of civil penalties shall apply.

(e) Any payment made in compliance with such a finding of financial loss shall not preclude any civil action which may be brought by the complainant, registrant or unregistered repair shop, and any such finding may be considered but shall not be binding upon any court before which any such action is brought.

4. Surrender of certificate of registration. Upon the suspension or revocation of a certificate of registration by the commissioner and the issuance of notice thereof, the registrant shall immediately deliver the certificate of registration to the commissioner or to any peace officer, acting pursuant to his special duties, or police officer directed by the commissioner to secure possession thereof, or agent of the commissioner, displaying authorization to act in such capacity along with a certified copy of the order revoking or suspending such registration, and the failure to so deliver the certificate within thirty days shall constitute a traffic infraction and shall be punishable in the manner provided in section eighteen hundred of this chapter.

§ 398-f. Hearings; review board; appeals; judicial review. 1. Hearings. (a) Upon the denial of an application for a certificate of registration, the applicant shall, upon written request made within

thirty days after the applicant is notified of such denial, be entitled to a hearing before an officer or employee of the department designated for such purpose by the commissioner.

(b) No certificate of registration shall be suspended or revoked, penalty imposed or determination of gross negligence or gross overcharging made as provided for pursuant to paragraph (h) of subdivision one of section three hundred ninety-eight-e of this article, until such registrant shall have been given the opportunity to be heard, upon written notice to the registrant, before an officer or employee of the department designated for such purpose by the commissioner, provided, however, that where a notice of hearing is mailed to a registrant at the address shown in the records of the department and such registrant fails to attend such hearing, the commissioner may suspend such registration pending the registrants attendance at such hearing. Requests for adjournment of such hearings shall be granted in accordance with regulations promulgated by the commissioner. A suspension pending attendance at a hearing shall not be appealable.

(c) The commissioner acting by such officer or employee in the department as he may designate, shall have the power to subpoena and bring before such officer or employee so designated any person in this state, or document, record or other relevant evidence, and administer an oath to and take the testimony of any such person or cause his deposition to be taken. A subpoena issued pursuant to this action shall be regulated by the civil practice law and rules.

(d) In the event a certificate of registration is revoked or an application is denied, no such certificate shall be issued to such former registrant or applicant for at least six months, nor thereafter, except in the discretion of the commissioner.

2. Review board. The commissioner shall establish a review board. Such board shall consist of persons who have been engaged in the automotive repair shop business for at least five years representing the automobile repair shop industry, persons who shall be laymen having no association with the automotive repair shop industry representing consumers, and persons who are attorneys admitted to practice in this state and who have no interest in or represent as an attorney an automotive repair shop. Members of the review board shall be appointed

insofar as is practicable to provide for representation of different geographic areas of the state, and shall serve in no other capacity in the department of motor vehicles. The number of persons appointed to such review board shall be determined by the commissioner and shall be appointed to serve at his pleasure. Three persons, one of whom shall be automotive repair shop industry representatives, one of whom shall be consumer representatives, and one of whom shall be an attorney appointed pursuant to the provisions of this subdivision, shall as a panel review each appeal from a determination of the hearing officer. Such attorney shall serve as the chairman of such panel with respect to any such review. Members of the review board shall be entitled to their actual and necessary expenses incurred in the performance of their duties thereunder, and shall be entitled to a per diem allowance as determined by the commissioner and approved by the director of the division of the budget not to exceed one hundred dollars except that those members who serve as the chairman of a panel at appeal proceedings may be entitled to a per diem allowance in an amount so determined and approved but not exceeding one hundred fifty dollars.

3. Appeals. (a) The review board will review and determine all appeals filed pursuant to this article. Such determination may be to affirm, reverse or modify the initial determination of the hearing officer, or to remand the case for a further hearing to determine additional facts. Any review by such board shall be based solely on the record upon which the initial determination is made and upon any written brief which may be submitted by or on behalf of the applicant or registrant.

(b) (1) Whenever a certificate of registration is suspended or revoked, an application for such registration denied, determination of gross negligence or gross overcharging made, the sealing of a premises ordered or penalty imposed by the commissioner pursuant to this article, except where such action is required by statute based upon a conviction, the registrant, applicant, or owner of the premises as such term is defined in paragraph (a) of subdivision five-a of section three hundred ninety-eight-i of this article may appeal such determination pursuant to the provisions of this article and such regulations as may be promulgated by the commissioner.

(2) No appeal shall be reviewed unless it is submitted within sixty days after written notice of the determination appealed from is mailed to the registrant or applicant.

(3) Any person desiring to appeal pursuant to this article shall do so in a form and manner as provided by regulations promulgated by the commissioner. The transcript of any hearing will only be reviewed if it is submitted by the appellant who shall bear the expense of furnishing such transcript.

(4) The fee for filing an appeal shall be ten dollars. No appeal shall be deemed filed or submitted unless any required fee has been paid.

(5) The submission of a written request to file such an appeal shall stay the operation of the initial determination until after a review is had and a determination has been made; provided, however, that failure to timely submit such appeal and comply with the provisions of this subdivision shall remove the stay imposed by this paragraph. Such review shall be made and decided as expeditiously as possible; provided that an appeal of an order directing the sealing of the premises pursuant to subdivision five-a of section three hundred ninety-eight-i of this article shall, to the extent possible, be given priority over all other appeals filed pursuant to this article.

(c) Whenever the same facts give rise to a hearing involving any other license or registration issued by the commissioner, a combined hearing may be held. If the registrant appeals only from a determination made with respect to his repair shop registration, he shall be entitled to a review as provided in subdivision one of this section; however, if he appeals from any determination or determinations made with respect to any other license or registration, as well as a determination with respect to his repair shop registration, the appeals procedure established in article three-A of this chapter shall be followed in lieu of the procedure established in subdivision three of this section.

4. Judicial review. The determination of the review board shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules.

§ 398-g. Powers of the commissioner. 1. In addition to the powers and duties specified elsewhere in this article, the commissioner, upon any complaint or upon his own initiative, shall have the power to make and conduct such investigations as he deems proper to effectuate the purposes of this article. The commissioner may establish, by rule or regulation, criteria upon which the necessity for investigation of complaints shall be determined. Such criteria may include but not be limited to the alleged financial loss to the complainant, the indication of a recurring incidence of fraud or deceptive practices, or the essential nature of the service provided to the safe operation of the vehicle. The commissioner shall also have the power to assist in the settlement of disputes between complainants and registrants. In any such case in which a settlement is reached, a report of the facts, shall be included in the registrant's record. The provisions of section three hundred ninety-eight-f relating to the required attendance of registrants and the power to subpoena shall apply to any investigation conducted pursuant to this section.

2. The commissioner shall prescribe such rules and regulations as he shall deem necessary to effectuate the purposes of this article including but not limited to, standards for personnel, equipment and facilities.

§ 398-h. Separability clause. If any part or provision of this article or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances.

§ 398-i. Unregistered operation; procedures and penalties. 1. The commissioner or any person deputized by him shall hear and determine any

allegation that a person has operated a repair shop without being registered as required by subdivision one of section three hundred ninety-eight-c of this chapter. Upon a determination that a person has so operated, the commissioner or person deputized by him shall assess civil penalties as provided in subdivisions two and three of this section.

2. Except as provided in subdivision three, any person who operates a repair shop without being registered shall be required to pay to the people of this state a civil penalty in the sum of one thousand dollars. However, any such person against whom such penalty has been assessed may avoid all but five hundred dollars of such penalty by obtaining a registration as required by this article, provided that application for such registration is made not more than ten days after the imposition of such penalty.

3. (a) Any person who operates a repair shop while his repair shop registration is revoked or suspended, shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided.

(b) Any person who operates a repair shop without being registered as required by subdivision one of section three hundred ninety-eight-c of this chapter who has previously had a civil penalty assessed for unregistered operation shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided.

4. (a) If it is determined that a person has operated a repair shop without being registered as required by this article, such determination may be appealed to the review board established pursuant to section three hundred ninety-eight-f of this chapter. The procedure established in such section shall apply to such appeals provided that no appeal shall be accepted or determined by the review board unless the civil penalty assessed against such person has been paid as prescribed in subdivision two of this section.

(b) The requirement that the civil penalty be paid before an appeal can be accepted or determined by the review board shall not apply to an

appeal by a repair shop from a determination made pursuant to subdivision three of this section.

(c) If the review board finds that the person has not been operating a repair shop without being registered, any civil penalty which has been paid shall be refunded, any premises ordered to be sealed pursuant to subdivision five-a of this section shall be unsealed, and if such board determines that registration as a repair shop is not required and a registration has been obtained to avoid the civil penalty assessed, the registration shall be cancelled and, notwithstanding the provisions of paragraph (a) of subdivision three of section three hundred ninety-eight-c of this chapter, all fees paid for such registration shall be refunded.

5. Civil penalties assessed under this section shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

5-a. Sealing of the premises. (a) In addition to any other penalties set forth in this article, the commissioner, after notice to the owner of the premises and the owner of the motor vehicle repair shop and the opportunity for a hearing, shall be authorized to

(i) order the sealing of the premises upon which any person has operated a motor vehicle repair shop without being registered, provided that such premises is primarily used for such activity and provided, further, that the commissioner shall not seal any dwelling unit or other space lawfully used solely for residential purposes;

(ii) order that any devices, items or goods utilized in the operation

of a motor vehicle repair shop and relating to such activity for which a registration for operation is required but has not been obtained pursuant to the provisions of this article shall be removed, sealed or otherwise made inoperable; and

(iii) order the removal of motor vehicles on the premises to a garage, pound or other place of safety. For purposes of this article, the term "owner of the premises" shall mean the owner, lessor, lessee or mortgagee of the building, erection or place wherein any person is operating an unregistered motor vehicle repair shop. The person in whose name the real estate affected by the orders of the commissioner is recorded in the office of the city register or the county clerk, as the case may be, shall be presumed to be the owner thereof.

(b) The lack of knowledge of, acquiescence or participation in or responsibility for, the operation of an unregistered motor vehicle repair shop, on the part of the owner of the premises and/or the owner of the motor vehicle repair shop, shall not be a defense by such owners.

(c) Orders of the commissioner issued pursuant to paragraph (a) of this subdivision shall be conspicuously posted at the premises upon which unlawful operation occurred.

(d) An order of the commissioner issued pursuant to paragraph (a) of this subdivision shall be stayed with respect to any person who, prior to service of the notice required by such paragraph, has submitted a complete application, in proper form and accompanied by the requisite fee, for a certificate of registration to operate a motor vehicle repair shop or a renewal thereof, while the application is pending.

(e) Ten days after the posting of an order issued pursuant to paragraph (a) of this subdivision, and upon the written directive of the commissioner, officers and employees of the department and police officers of any appropriate law enforcement agency shall be authorized to act upon and enforce such order. The commissioner may take such steps as are lawful and necessary to prevent the removal from the premises of any devices, items, goods or personal property used in the conduct of a motor vehicle repair shop business during such ten day period.

(f) (i) Any devices, items, goods or motor vehicles removed pursuant to the provisions of subparagraphs (ii) and (iii) of paragraph (a) of this subdivision shall be stored in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession

of such devices, items, goods or motor vehicles may be charged with reasonable costs for removal and storage payable prior to the release of such devices, items, goods or motor vehicles to such owner or such other person.

(ii) The commissioner shall, by first class mail, notify the registered owner of any motor vehicle removed pursuant to subparagraph (iii) of paragraph (a) of this subdivision within five business days of the removal, of the location of such motor vehicle and the actions necessary to recover such motor vehicle.

(iii) The owner or other person lawfully entitled to reclaim the devices, items, goods or motor vehicles removed pursuant to this section shall reclaim such devices, items, goods or motor vehicles within ninety days of their removal, or such devices, items, goods or motor vehicles shall be subject to forfeiture upon notice and judicial determination in accordance with the provisions of law. Upon forfeiture the commissioner shall, upon a public notice of at least five days, sell such forfeited devices, items, goods or motor vehicles at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund.

(iv) Lessors of devices, items, goods or personal property removed pursuant to the provisions of subparagraph (ii) of paragraph (a) of this subdivision may reclaim leased devices, items, goods or personal property upon presentment of proof that the lessor is not otherwise involved, directly or indirectly, in the ownership or operation of such motor vehicle repair shop and that the lessee is in breach of the lease or in default of payments, and upon payment of any reasonable costs imposed for the removal and storage of such devices, items, goods or personal property pursuant to this subdivision.

(g) The commissioner shall order any premises which are sealed pursuant to paragraph (a) of this subdivision to be unsealed upon:

(i) payment of any and all fines, penalties and restitution; and

(ii) presentment of proof that the required registration has been obtained for operation of a motor vehicle repair shop on the premises, or proof satisfactory to the commissioner, submitted by the owner of the premises, that such premises will not be used in violation of this article.

(h) In addition to any fines, penalties or actions taken with respect

to a motor vehicle repair shop and the persons operating, providing equipment or otherwise involved in the operations of such shop, the commissioner may also take action with respect to the owner of the premises where such shop has operated or is operating as provided in this paragraph. Upon a finding by the commissioner, after notice and the opportunity for a hearing, that an unregistered motor vehicle repair shop has been operated at the same premises on two or more separate occasions within eighteen months resulting in two or more separate determinations by the commissioner of a violation of this section with respect to such premises, and that the owner of the premises knowingly allowed such operation, the commissioner may impose upon such owner of the premises a civil penalty in an amount not to exceed fifteen thousand dollars, or may order the sealing of the premises for not more than one hundred eighty days, or both such actions.

(i) Nothing contained herein shall be construed to authorize the commissioner to execute an order issued pursuant to this subdivision without the presence and assistance of a police officer of an appropriate law enforcement agency.

(j) Removal of the seal on any premises sealed pursuant to the provisions of this subdivision shall constitute a misdemeanor.

6. No allegation of unregistered operation as a repair shop shall be heard or determined unless notice of such allegation has been mailed to such person within two years after the date of the alleged unregistered operation.

§ 398-k. Improper display of signs. 1. The holder of a repair shop registration shall remove or cause to be removed any sign which contains the registration number of the station which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the registration is revoked or suspended or the repair shop is out of business. If the registration is only suspended, the holder may cover up the sign instead of removing it.

2. No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder

indicating to the public that an official repair shop is operating unless a repair shop registration has been issued to that person and is currently valid.

ARTICLE 12-B

APPROVAL OF MOTOR VEHICLE ACCIDENT PREVENTION COURSES

Section 399-a. Statement of purpose.
399-b. Definitions.
399-c. Approval by the commissioner.
399-d. Application for approval.
399-e. Standards for course approval.
399-f. Proof of effectiveness.
399-g. Regulations.

§ 399-a. Statement of purpose. The purposes of this article are to further highway safety by preserving the quality and efficacy of the accident prevention course programs. These purposes will be accomplished by establishing strict criteria for initial and continual course sponsorship approval.

§ 399-b. Definitions. For the purposes of this article, the following terms shall have the following definitions:

1. "Sponsoring agency" shall mean an organization which owns a motor vehicle accident prevention course approved by the commissioner.

2. "Delivery agency" shall mean an organization which conducts a sponsoring agency's approved motor vehicle accident prevention course.

3. "Instructor" shall mean an individual employed by a delivery agency to teach an approved accident prevention course.

4. "Accident prevention course" or "course" shall mean the accident prevention course curriculum or specialized course curriculum which has

been approved by the commissioner.

5. "Completion certificate" shall mean a document which cannot be altered and which is provided to the student who successfully completes the accident prevention course.

6. "Specialized course" shall mean a course aimed primarily at enhancing safety within a specific occupation or for a specific category of vehicles.

§ 399-c. Approval by the commissioner. The commissioner must approve an accident prevention course before any person attending and successfully completing such course may qualify to receive mandatory insurance reduction benefits in accordance with subsection (a) of section two thousand three hundred thirty-six of the insurance law. The commissioner shall base the decision to approve a course upon the requirements set forth in this article and any additional requirements as the commissioner deems necessary.

§ 399-d. Application for approval. 1. An agency or organization seeking approval as a motor vehicle accident prevention course sponsoring agency shall apply to the commissioner for approval. Such applications shall be made in writing and on forms prescribed by the commissioner. The application shall include at a minimum: the title or name of the course, the name of the organization submitting the application, proof of course ownership, and the names and addresses of all owners, officers, and directors of the agency or organization, and such other information or material as the commissioner may prescribe. An application shall not be considered to be complete until all information and material required by this chapter and by regulation of the commissioner has been submitted.

2. The commissioner shall either approve or deny an application for course approval no later than ninety days following submission of a completed application. In the event the commissioner takes no action on

an application after ninety days following submission of a completed application, the application shall be deemed denied.

§ 399-e. Standards for course approval. 1. To be approved, a course must:

(a) Have been given for at least two years by the applicant agency or organization prior to the submission of an application.

* (b) Provide at least three hundred twenty minutes of instruction, with a certified instructor present. The requirement that a certified instructor be present shall not be applicable to a program approved pursuant to article twelve-C of this title. Nothing in this section shall prevent the use of audio/visual aids as part of the course presentation prescribed by the commissioner.

* NB Effective until April 1, 2028

* (b) Provide at least three hundred twenty minutes of instruction, with a certified instructor present. Nothing in this section shall prevent the use of audio/visual aids as part of the course presentation prescribed by the commissioner.

* NB Effective April 1, 2028

(c) Provide a description of the minimum qualifications of all managers and instructors who will be hired by the applicant.

(d) Provide each instructor with an instructor's manual and provide student workbooks and/or manuals for each course participant.

(e) Provide a copy of a completion certificate which is designed to prevent and is capable of preventing fraud and forgery, and which is approved by the commissioner for the purpose of verifying course completion for submission to insurance companies.

(f) Provide proof of effectiveness pursuant to section three hundred ninety-nine-f of this article.

2. The commissioner is authorized to suspend or revoke approval of a sponsoring agency should the commissioner find that the sponsoring agency, its delivery agency or its instructors have been found to be in violation of any applicable laws or regulations.

§ 399-f. Proof of effectiveness. Proof of effectiveness shall be verifiable research documentation submitted by the applicant for sponsorship showing evidence of effectiveness comparable to that of the national safety council's defensive driving course as determined by the commissioner in terms of reduced convictions or accidents or both. This research documentation shall employ accepted research principles and include treatment and non-treatment control groups comprised of samples of the representative driver base. In order to establish verifiable effectiveness, each sample group should be comprised of a minimum of three thousand drivers selected randomly. The documentation shall include conviction or accident data for each motorist for a period of at least eighteen months prior to the course completion date and at least eighteen months subsequent to such date, and equivalent time periods for non-treatment control groups. The documentation shall also include a description of the sampling and analytic procedures used, and the motorist identification number and course completion date for all course attendees. The applicant for sponsorship shall provide, at the request of the commissioner and at the applicant's expense, all driving record data and analysis used in the development of the submitted research documentation. Submission of any fraudulent or intentionally misleading data will disqualify that organization and all owners and principals from participating or approval in the accident prevention course for a period of ten years from submission date. The commissioner may, by regulation, provide for a smaller sample group for specialized courses.

§ 399-g. Regulations. The commissioner shall promulgate such rules and regulations as are necessary to effectuate the provisions of this article. In addition to any requirements expressly authorized by this article, such regulations may include but not be limited to requirements and standards with respect to: delivery agencies and instructors; classroom facilities; suspension or revocation of approval; appeal of suspension or revocation; course administration and advertising; monitoring of courses and instructors; and reevaluation of course effectiveness pursuant to section three hundred ninety-nine-f of this article.

* ARTICLE 12-C

ACCIDENT PREVENTION COURSE INTERNET, AND OTHER TECHNOLOGY PILOT PROGRAM

Section 399-k. Accident prevention course internet technology pilot program.
399-l. Application.
399-m. Pilot program scope and duration.
399-n. Regulations.
399-o. Report by commissioner.

* NB Repealed April 1, 2028

*** § 399-k. Accident prevention course internet technology pilot program.** The commissioner shall establish and implement a comprehensive pilot program to review and study internet, and other technologies as approved by the commissioner, as a training method for the administration and completion of an approved accident prevention course for the purposes of granting point and insurance premium reduction benefits.

* NB Repealed April 1, 2028

*** § 399-l. Application.** Applicants for participation in the pilot program established pursuant to this article shall be among those accident prevention course sponsoring agencies that have a course approved by the commissioner pursuant to article twelve-B of this title and which deliver such course to the public. Provided, the commissioner shall, in his or her discretion, approve additional applications after the effective date of this article. In order to be approved for participation in such pilot program, the course must comply with the provisions of law, rules and regulations applicable thereto. The commissioner may, in his or her discretion, impose a fee for the submission of each application to participate in the pilot program established pursuant to this article. Such fee shall not exceed seven thousand five hundred dollars.

* NB Repealed April 1, 2028

*** § 399-m. Pilot program scope and duration.** The commissioner shall conduct a pilot program designed to evaluate utilizing internet, and other technologies as approved by the commissioner, for delivering accident prevention courses for point and insurance premium reduction benefits to the public by permitting qualifying applicants to participate in the pilot program for a period of five years.

* NB Repealed April 1, 2028

*** § 399-n. Regulations.** 1. The commissioner is authorized and directed to promulgate any rules and regulations necessary to implement the provisions of this article and to insure that internet, and other technology as approved by the commissioner, delivered accident prevention courses established pursuant to this article can validate: student identity at registration and throughout the course; participation throughout the course; that the time requirements are met; and successful completion of the course. Provided, however, that any rules and regulations promulgated pursuant to this article shall not stipulate any particular location for delivery of an accident prevention course or limit the time of day during which such course may be taken.

2. The commissioner is authorized to impose a fee upon each accident prevention course sponsoring agency approved for participation in the pilot program, which shall not exceed eight dollars for each student who completes an accident prevention course by means of the pilot program established pursuant to this article.

* NB Repealed April 1, 2028

*** § 399-o. Report by commissioner.** Within five years of the establishment and implementation of this article, the commissioner shall report to the governor, the temporary president of the senate and the speaker of the assembly on the accident prevention course internet, and other technology as approved by the commissioner, pilot program and its results. Such report shall include recommendations as to the future use

of internet and other technologies as an effective way, in addition to classroom presentation, to deliver to the public approved accident prevention courses, and qualifications for participants in such approved internet and other technology-delivered programs.

* NB Repealed April 1, 2028

* ARTICLE 12-D

PRE-LICENSING COURSE INTERNET PILOT PROGRAM

Section 399-p. Pre-licensing course internet pilot program.
399-q. Application.
399-r. Regulations, fees and privacy.
399-s. Pilot program scope and duration.
399-t. Report by commissioner.

* NB Repealed June 30, 2030

*** § 399-p. Pre-licensing course internet pilot program.** The commissioner shall establish and implement a comprehensive pilot program to review and study the use of the internet for the administration and completion of an approved pre-licensing course as required by subparagraph (i) of paragraph (a) of subdivision four of section five hundred two of this chapter.

* NB Repealed June 30, 2030

*** § 399-q. Application.** An applicant for participation in the pilot program established pursuant to this article shall be an approved sponsor of an internet accident prevention course, pursuant to article twelve-C of this title, prior to the effective date of this article and which delivers such courses to the public. Provided, the commissioner shall, in his or her discretion, approve additional applications after such date. In order to be approved for participation in such pilot program, the course must comply with provisions of law, rules and regulations applicable thereto. The commissioner may, in his or her discretion, impose a fee for the submission of each application to participate in the pilot program established pursuant to this article.

Such fee shall not exceed seven thousand five hundred dollars which shall, excluding administrative expenses of the department, be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.

* NB Repealed June 30, 2030

*** § 399-r. Regulations, fees and privacy.** 1. The commissioner is authorized and directed to promulgate any rules and regulations necessary to implement the provisions of this article and to insure that internet delivered pre-licensing courses as approved by the commissioner and established pursuant to this article, can validate: student identity at registration and throughout the course; participation throughout the course; that time requirements are met; and successful completion of the course. Provided, however, that any rules and regulations promulgated pursuant to this article shall not stipulate any particular location for delivery of a pre-licensing course or limit the time of day during which such course may be taken.

2. The commissioner is authorized to impose a fee upon each internet pre-licensing course sponsoring agency approved for participation in the pilot program to deliver such course, which shall not exceed eight dollars for each student who completes such course by means of the pilot program established pursuant to this article. Such fees, excluding administrative expenses of the department, shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.

3. No internet pre-licensing course sponsoring agency shall disclose or otherwise make available to any person or entity any personal information obtained by such provider about any student who registers for such course. For the purposes of this article, "personal information" shall mean information that identifies an individual, including an individual's photo image, social security number, driver identification number, name, address (but not the five-digit zip code), telephone number, and medical or disability information.

* NB Repealed June 30, 2030

*** § 399-s. Pilot program scope and duration.** The commissioner shall conduct a pilot program designed to evaluate utilizing the internet for delivering an approved pre-licensing course required by subparagraph (i) of paragraph (a) of subdivision four of section five hundred two of this chapter, by permitting qualified applicants to participate in the pilot program from June thirtieth, two thousand twenty to June thirtieth, two thousand thirty. Provided that applicants for class DJ and class MJ licenses shall not be eligible to participate in such pilot program.

* NB Repealed June 30, 2030

*** § 399-t. Report by commissioner.** No later than June first, two thousand twenty-five, the commissioner shall report to the governor, the temporary president of the senate and the speaker of the assembly on the pre-licensing course internet pilot program and its results. Such report shall include recommendations as to the future use of the internet as an effective way, in addition to classroom presentation, to deliver to the public approved pre-licensing courses, and qualifications for participants in such approved internet delivered programs.

* NB Repealed June 30, 2030

TITLE IV

REGISTRATION OF VEHICLES

Article 13. Application of this title.
14. Registration of motor vehicles.
14-A. Apportionment or allocation of registration fee agreement.
14-B. Bus taxation proration and reciprocity agreement.
15. Registration of motorcycles.
15-A. Reciprocity agreements for the recognition of the agricultural truck registration class.
16. Registration of dealers and transporters.
17. Other provisions relating to registration and possession.

17-A. Franchised motor vehicle dealer act.
17-A*. Non-driver identification card.
17-B. Interjurisdictional pre-arranged for-hire vehicle operation.
17-C. Metropolitan commuter transportation district supplemental registration fee.

ARTICLE 13

APPLICATION OF THIS TITLE

Section 400. Application of this title.
400-a. Exceptions to registration provisions.

§ 400. Application of this title. Except as otherwise expressly provided in this chapter, this title shall be exclusively controlling:

a. Upon the registration, numbering and regulation of motor vehicles and motorcycles; and

b. On their use of public highways.

§ 400-a. Exceptions to registration provisions. Notwithstanding any inconsistent provision of this chapter or other law or regulation, the commissioner may refuse to register any vehicle or class of vehicles for use on the public highways where he determines that the characteristics of such vehicle or class of vehicles make such vehicle or vehicles unsafe for highway operation. Provided, however, that such authority shall not extend to any vehicle which is eligible for registration as a special purpose commercial vehicle under the provisions of schedule F of subdivision seven of section four hundred one of this chapter.

ARTICLE 14

REGISTRATION OF MOTOR VEHICLES

Section 401. Registration of motor vehicles; fees; renewals.

401-a. In-transit permits.
401-b. Registration of tow trucks.
402. Distinctive number; form of number plates; trailers.
402-a. Facsimile license plates.
402-b. Obscured and obstructed license plates.
403. Number plates continued.
403-a. Temporary indicia of registration.
403-b. Sales of special number or distinctive license plates by certain dealers.
404. Issuance of special number plates.
404-a. Registration of motor vehicles of severely disabled persons.
404-aa. Distinctive plates for members of the Catholic War Veterans of America.
404-b. Distinctive plates for volunteer firefighters.
404-bb. Distinctive Cystic Fibrosis Foundation license plates.
404-c. Distinctive plates for former prisoners of war.
404-cc. Distinctive "Cure Childhood Cancer" plates.
404-d. Distinctive plates for members of the organized militia and reserve.
404-dd. Distinctive plates for members of AMVETS.
404-dd*2. Mental illness anti-stigma license plates.
404-e. Distinctive plates for purple heart recipients.
404-ee. Distinctive "West Indian American Day Carnival" license plates.
404-ee*2. Distinctive Down's syndrome awareness license plates.
404-ee*3. Distinctive "September eleventh, two thousand one remembrance" license plates.
404-ee*4. Distinctive "Jamaican bobsled team" number plates.
404-f. Distinctive plates for members of volunteer ambulance services.
404-g. Distinctive plates bearing the words "Birthplace of Baseball".
404-h. Distinctive plates for members of the Jewish War Veterans of America.
404-i. Distinctive plates for gold star mothers.
404-j. Registration and issuance of special number plates for

veterans who survived the Pearl Harbor attack.

404-k. Distinctive plates for Marine Corps League members.

404-l. Distinctive regional design plates.

404-m. Distinctive license plates commemorating the World University Games.

404-n. Issuance of distinctive conservation plates.

404-o. Distinctive "Olympic Spirit" license plates.

404-oo. Deposit of service charges for distinctive license plates.

404-p. Distinctive "Animal Population Control Fund" license plates.

404-p*2. Distinctive plates for congressional medal of honor recipients.

404-q. Distinctive "drive for the cure" license plates.

404-q*2. Distinctive plates for the council on the arts.

404-r. Distinctive "foreign organization" license plates.

404-r*2. Distinctive plates for New York state licensed dentists who are members of the New York State Dental Association.

404-s. Issuance of distinctive "I Love New York" plates.

404-s*2. Issuance of distinctive plates for agriculture.

404-s*3. Distinctive "drive out diabetes" license plates.

404-s*4. Distinctive plates for the Saratoga national cemetery honor guard association.

404-t. Distinctive marine and coastal district of New York license plates.

404-t*2. Distinctive conserve habitat license plates.

404-t*3. Distinctive "peace at home" license plates.

404-u. Distinctive "keep kids drug free" license plates.

404-u*2. Distinctive "national multiple sclerosis society" license plates.

404-u*3. Distinctive gift of life license plates.

404-u*4. Distinctive "Erie canal" license plates.

404-v. Distinctive plates for water rescue team members.

404-v*2. Distinctive plates for the United States Naval Armed Guard.

404-v*3. Distinctive plates for the arts and cultural

institutions and museums.

404-v*4. Distinctive plates for members of the Eighth Air Force Historical Society.

404-v*5. Issuance of distinctive "Discover Queens" license plates.

404-v*6. Distinctive autism awareness license plates.

404-v*7. Distinctive "Love your library" plates.

404-w. Distinctive plates for war on terror veterans.

404-w*2. Distinctive plates for Persian Gulf veterans.

404-x. Distinctive "Ducks Unlimited" license plates.

404-y. Distinctive plates for veterans of the Iraq War and veterans of the Afghanistan War.

404-y*2. Distinctive "Appalachian Trail" license plates.

404-y*3. Distinctive plates for members of the Kiwanis International.

404-y*4. Distinctive plates for conspicuous service cross recipients.

404-y*5. Distinctive lupus awareness license plates.

404-y*6. Distinctive sickle cell disease awareness license plates.

404-z. Distinctive "Elks Association" license plates.

§ 401. Registration of motor vehicles; fees; renewals. 1. Registration by owners. a. No motor vehicle shall be operated or driven upon the public highways of this state without first being registered in accordance with the provisions of this article, except as otherwise expressly provided in this chapter.

b. Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, except as otherwise expressly provided, cause to be presented, by mail or otherwise, to the office or a branch office of the commissioner, or to any agent of the commissioner, constituted as provided in this chapter, an application for registration addressed to the commissioner, and on a blank to be prepared under the direction of and furnished by the commissioner for that purpose, containing: (a) a brief description of the motor vehicle

to be registered, including the name and factory number of such vehicle, and such other facts as the commissioner shall require; (b) the weight of the vehicle upon which the registration fee is based if the fee is based on weight; (c) the name and residence, including county of the owner of such motor vehicle; (d) provided that, if such motor vehicle is used or to be used as an omnibus, the applicant also shall so certify, and in the case of an omnibus also certify as to the seating capacity, and if the omnibus is to be operated wholly within a municipality pursuant to a franchise other than a franchise express or implied in articles of incorporation upon certain streets designated in such franchise, those facts shall also be certified, and a certified copy of such franchise furnished to the commissioner; (e) provided, that, if such motor vehicle is an altered livery, the applicant shall so furnish a certified copy of the length of the center panel of such vehicle, provided, however, that the commissioner shall require such proof, as he may determine is necessary, in the application for registration and provided further, if the center panel of such vehicle exceeds one hundred inches, the commissioner shall require proof that such vehicle is in compliance with all applicable federal and state motor vehicle safety standards; and (f) such additional facts or evidence as the commissioner may require in connection with the application for registration. Every owner of a trailer shall also make application for the registration thereof in the manner herein provided for an application to register a motor vehicle, but shall contain a statement showing the manufacturer's number or other identification satisfactory to the commissioner and no number plate for a trailer issued under the provisions of subdivision three of section four hundred two of this chapter shall be transferred to or used upon any other trailer than the one for which number plate is issued. The commissioner shall require proof, in the application for registration, or otherwise, as such commissioner may determine, that the motor vehicle for which registration is applied for is equipped with lights conforming in all respects to the requirements of this chapter, and no motor vehicle shall be registered unless it shall appear by such proofs that such motor vehicle is equipped with proper lights as aforesaid. The said application shall contain or be accompanied by such evidence of the ownership of the motor vehicle described in the application as may be

required by the commissioner or his agent and which, with respect to new vehicles, shall include, unless otherwise specifically provided by the commissioner, the manufacturer's statement of origin. Applications received by an agent of the commissioner shall be forwarded to the commissioner as he shall direct for filing. No application for registration shall be accepted unless the applicant is at least sixteen years of age.

2. Registration record. Upon the receipt of a sufficient application for registration of a motor vehicle or trailer, as provided in this article, the commissioner, or the agent receiving it, shall register such motor vehicle or trailer and maintain a record of the registration of such vehicle under the distinctive number assigned to such motor vehicle or trailer as provided in this section, and the information in such record may be obtained upon payment of the fees specified in section two hundred two of this chapter.

3. Certificates of registration. a. Upon filing of such application and the payment of the fee hereinafter provided, the commissioner shall assign to such motor vehicle a distinctive number and, without expense to the applicant, issue and deliver in such manner as the commissioner may select to the owner a certificate of registration, in such form as the commissioner shall prescribe, and two number plates at a place within the state of New York named by the applicant in his or her application. A number plate, within the meaning of this chapter, may, in the discretion of the commissioner, be a plate of a permanent nature, treated with reflectorized material according to specifications prescribed by the commissioner, and with a date tag attached to such plate or to the vehicle as prescribed by regulations of the commissioner indicating the validity of the plate during a certain period and the issuance of such a number plate with such date tag to a person possessing such a number plate shall be deemed the issuance of a number plate. An additional fee, not to exceed twenty-five dollars, shall be paid to the commissioner whenever a set of reflectorized number plates is issued for any vehicle for which a registration fee is normally charged except that, with respect to any number plate which is specifically requested by the applicant, such fee shall be paid to the

commissioner upon approval of such request. In the event of the loss, mutilation or destruction of any certificate of registration, any number plate or set of number plates whether with or without a date tag or tags, or any date tag or set of date tags provided for in this article, the owner of a registered motor vehicle may file such statement and proof of the facts as the commissioner shall require, with a fee of three dollars, in the office of the commissioner, or, unless and until the commissioner shall otherwise direct, in the office of the agent who issued the certificate, plate, plates, tag or tags and the commissioner or his or her agent, as the case may be, shall issue a duplicate or substitute. It shall be the duty of every owner holding a certificate of registration to notify the commissioner in writing of any change of residence of such person within ten days after such change occurs, and to inscribe on such certificate, in the place provided by the commissioner, a record of such change of residence.

b. During a registration period the commissioner may, upon application by the owner of a registered motor vehicle and upon payment of a fee of three dollars and seventy-five cents, change the distinctive number assigned to such motor vehicle and issue a new set of number plates provided the original registration and number plates are surrendered. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this subdivision in effect on and after September first, two thousand nine and the fees set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

c. The commissioner may waive the payment of fees required by paragraph a of this subdivision if the applicant is a victim of crime and the certificate of registration or number plates applied for are a replacement for those that were lost or destroyed as a result of the crime.

d. In processing any application for a certificate of registration pursuant to this article or to title eleven of this chapter, the commissioner shall provide the applicant with informational materials describing the lead-acid battery management, return and collection

requirements set forth in title seventeen of article twenty-seven of the environmental conservation law, and the used oil management, recycling and disposal requirements set forth in title twenty-three of article twenty-three of the environmental conservation law. Such informational materials shall be distributed at the first opportunity and periodically thereafter.

4. Carrying certificate of registration. Any magistrate, motor vehicle inspector, peace officer, acting pursuant to his special duties, or police officer may request that the operator of any motor vehicle produce for inspection the certificate of registration for such vehicle and such operator shall furnish to such magistrate, inspector, peace officer or police officer any information necessary for the identification of such vehicle and its owner, and all information required concerning his license to operate, if he is required by law to have such a license, and shall, if required, sign his name in the presence of such magistrate, inspector, peace officer or police officer as a further means of identification. The production of a license to a magistrate, inspector, peace officer or police officer shall be prima facie evidence in a prosecution for a violation of any provision of this chapter, other than section three hundred ninety-two of this chapter, that the person who so produced the license is the person identified on such license. Provided, however, that a photostatic copy of the certificate of registration may be produced in lieu of the original certificate. If a vehicle does not have affixed a validating sticker which indicates the plate number, the vehicle identification number and the expiration date of the registration, the failure to produce the certificate of registration, or a photostatic copy of such certificate, shall be presumptive evidence of operating a motor vehicle or trailer which is not registered as required by this article.

5. Times for registration, reregistration and renewal; proportionate fees. a. Registrations, reregistrations and renewals shall take effect and expire on dates determined by the commissioner. However, where the expiration date of the registration of any vehicle, except a taxi or an omnibus, falls on a Saturday, Sunday or state holiday, such registration shall be valid for the operation of such vehicle until midnight of the

next day on which state offices shall be open for business. Provided, however, that renewal of a registration may be used preceding the expiration date of such registration including such expiration date. Provided, further, however, that where the required proof of registration consists of an expired registration for the same vehicle, issued to the same person applying for the registration or renewal, and the expired registration certificate and number plates and date tags issued for such registration had not been surrendered to the commissioner on or before the expiration date of such registration, the commissioner may in his discretion deem such application to be a renewal of the expired registration and require that the fee paid for such registration be computed as if the registration had been made prior to the date of expiration of the expired registration.

b. The fee for the renewal of a registration shall be the same as the annual registration fee, and, where a registration or renewal is for a period of more or less than one calendar year, the annual fees as provided in this section shall be increased or reduced proportionately on a daily computation basis, except that where the annual registration fee for such vehicle would amount to ten dollars or less, the fee shall not be so prorated.

c. Notwithstanding any other provision of this article, the commissioner shall issue registrations and renewals of registrations for motor vehicles for which a registration fee established in paragraph a of subdivision six of this section is required to be paid and for motor vehicles having a maximum gross weight of not more than eighteen thousand pounds for which a registration fee established in paragraph one of schedule B of subdivision seven of this section is required to be paid for a period of not less than two years. In addition, the full amount of any other charges, taxes or fees which would be required to be paid to, or collected by, the commissioner during the entire registration period if registrations were issued for twelve month periods shall be paid to the commissioner at the time of such registration or renewal of registration. The commissioner shall promulgate rules and regulations for the issuance of registration renewals extended as required in this paragraph. However, such

regulations may provide that the initial issuance of extended renewals be accomplished over a two year period. The commissioner may by regulation exempt from the provisions of this paragraph registrations for motor vehicles issued in conjunction with any long-term registration program or registration reciprocity or proration agreement which this state has established or to which this state is a party.

5-a. Denial of registration or renewal. a. (i) If at the time of application for a registration or renewal thereof there is a certification from a court, parking violations bureau, traffic and parking violations agency, traffic camera violations bureau or administrative tribunal of appropriate jurisdiction that the registrant or their representative failed to appear on the return date or any subsequent adjourned date or failed to comply with the rules and regulations of an administrative tribunal following entry of a final decision in response to a total of three or more summonses or other process in the aggregate, issued within an eighteen month period, charging either that: (i) such motor vehicle was parked, stopped or standing, or that such motor vehicle was operated for hire by the registrant or their agent without being licensed as a motor vehicle for hire by the appropriate local authority, in violation of any of the provisions of this chapter or of any law, ordinance, rule or regulation made by a local authority; or (ii) the registrant was liable for a violation of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or (iii) the registrant was liable for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or (iv) the registrant was liable for a violation of bus lane restrictions as defined by article twenty-four of this chapter

imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or (v) the registrant was liable for a violation of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; or (vi) the registrant was liable for a violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or (vii) the registrant was liable for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or (viii) the registrant was liable for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, the commissioner or their agent

shall deny the registration or renewal application until the applicant provides proof from the court, traffic and parking violations agency, traffic camera violations bureau or administrative tribunal wherein the charges are pending that an appearance or answer has been made or in the case of an administrative tribunal that such applicant has complied with the rules and regulations of said tribunal following entry of a final decision. Where an application is denied pursuant to this section, the commissioner may, in their discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Such denial shall only remain in effect as long as the summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following entry of a final decision.

(ii) For purposes of this paragraph, the term "motor vehicle operated for hire" shall mean and include a taxicab, livery, coach, limousine or tow truck.

b. If at the time of application by any person for a registration or renewal thereof there is a certification from a court or an agency or administrative tribunal with regulatory or adjudicatory authority over van services or other such common carriers of passengers in any city with a population of over one million pursuant to subdivision five of section eighty of the transportation law that there remains unpaid a penalty imposed by such agency or administrative tribunal or court following entry of a decision or order, including a decision or order in a proceeding in which there has been a failure to appear or pay, in response to a notice of violation, summons or other process issued charging that the vehicle was operated as a van service or other such common carrier of passengers without the operating authority required by such local law or ordinance, the commissioner or the commissioner's agent shall impose a vehicle identification number block and deny the registration or renewal application until the applicant provides proof

from the court or agency or other administrative tribunal wherein the charges were adjudicated that such penalty has been paid in full or the violation has been corrected to its satisfaction. Where an application is denied pursuant to this paragraph, the commissioner may, in the commissioner's discretion, deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this paragraph and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this paragraph. Such vehicle identification number block and denial shall only remain in effect until the penalty has been paid in full or the violation has been corrected to the satisfaction of the court, city agency or administrative tribunal.

c. The commissioner may promulgate such regulations as are necessary to effectuate the provisions of this subdivision, including provisions for the recovery of the administrative costs of the program incurred for each municipality. The commissioner may, in his discretion, refuse to process a certification received from a court or administrative tribunal in any municipality which has failed to comply with the provisions of section five hundred fourteen of this chapter or which does not have an effective program for enforcing suspension and revocation orders issued by the department.

6. Registration fees. a. The following fees shall be paid to the commissioner, or agent, upon the registration or reregistration of a motor vehicle, including a suburban, in accordance with the provisions of this article:

If such motor vehicle, fully equipped, weighs thirty-five hundred pounds or less, eighty-one cents for each one hundred pounds or major fraction thereof; if such motor vehicle, fully equipped, weighs more than thirty-five hundred pounds, eighty-one cents for each one hundred pounds up to thirty-five hundred pounds, and one dollar and twenty-one cents for each hundred pounds, or major fraction thereof, in excess of thirty-five hundred pounds; provided, however, that the total fees for

the registration or reregistration of any passenger motor vehicle propelled by electricity shall be sixteen dollars and eighteen cents, of a six, eight, or twelve cylinder motor vehicle not less than sixteen dollars and eighteen cents, and of any other motor vehicle not less than twelve dollars and ninety-five cents; and provided further that for motor vehicles described in subdivision seven of this section, the fee for such registration shall be as therein prescribed. Provided further, however, that the maximum registration fee under this paragraph shall not exceed seventy dollars and eight cents per registration year. For the purposes of this section a "suburban" shall be a motor vehicle with a convertible or interchangeable body or with removable seats, usable for both passenger and delivery purposes, and including motor vehicles, commonly known as station or depot wagons. The manufacturer's weight of motor vehicle shall be accepted as the weight for the purpose of registration under this paragraph.

b. The provisions of this article with respect to the payment of registration fees shall not apply to ambulances used exclusively to carry sick or injured persons, other than those used in the business of carrying or transporting sick or injured persons for hire or profit, or to motor vehicles which are especially constructed and equipped to carry lost, strayed, sick, maimed or disabled animals, and owned and operated for that purpose by a duly incorporated society, incorporated for the purpose of preventing cruelty to animals, or to motor vehicles owned or controlled by the state, a city, county, village, town, school district, or fire district or any of the departments thereof or county extension service association or public improvement district formed under and pursuant to provisions of the town law, or sanitary district formed pursuant to the provisions of chapter five hundred sixteen of the laws of nineteen hundred twenty-eight, as amended, or soil conservation districts formed pursuant to the provisions of the soil conservation districts law, or to motor vehicles owned by professional foreign consuls-general, consuls and vice consuls, who are nationals of the state appointing them and who are assigned to foreign consulates in the state of New York, provided that American professional consular officers of equal rank who are citizens of the United States and who exercise their official functions at American consulates in such foreign country,

are granted reciprocal exemption, or to motor vehicles owned and operated by the American Red Cross, but in other respects shall be applicable.

b-1. The provisions of this article with respect to the payment of registration fees shall not apply to (i) fire vehicles, as defined in section one hundred fifteen-a of this chapter, owned or controlled by a fire company, as defined in section three of the volunteer firefighters' benefit law, or to (ii) emergency ambulance service vehicles, as defined in section one hundred fifteen-c of this chapter, owned or controlled by an ambulance company, as defined in section three of the volunteer ambulance workers' benefit law. Upon the filing of an application in such form and detail as the commissioner may prescribe, the commissioner shall issue plates for such vehicles in the same manner as plates issued to vehicles owned or controlled by fire districts pursuant to paragraph b of this subdivision.

c. The provisions of this subdivision with respect to the payment of registration fees shall not apply to a passenger or suburban type motor vehicle or the provisions of subdivision seven of this section with respect to the payment of registration fees shall additionally not apply to any auto truck or light delivery car having a maximum gross weight of less than sixty-five hundred pounds which is used exclusively for passengers and owned by any disabled veteran of the armed forces of the United States who has obtained such motor vehicle under and pursuant to the provisions of public law number six hundred sixty-three, seventy-ninth congress, and public law number seven hundred ninety-eight, eighty-first congress and public law number one hundred eighty-seven, eighty-second congress or any comparable motor vehicle which is bought or acquired to replace such original motor vehicle owned by such disabled veteran.

d. (i) In addition to the other fees provided for in this section, the commissioner shall, upon the application for the registration of a motor vehicle or the renewal thereof, collect the tax authorized by subdivision (g) of section twelve hundred one of the tax law, if a city of one million or more, pursuant to subdivision (h) of section twelve

hundred one of such law, enacts a local law providing for the collection of such tax by the commissioner and enters into the required agreement relating thereto.

(ii) In addition to the other fees provided for in this section, the commissioner shall, upon the application for the registration of a motor vehicle or the renewal thereof, collect the tax of the type authorized under subdivision (e) of section twelve hundred one of the tax law, if a county, pursuant to subdivision (c), (e), (f) or (g) of section twelve hundred two of such law, enacts a local law, ordinance or resolution providing for the collection of such tax by the commissioner and enters into the required agreement relating thereto.

e. A. In addition to any other fee for registration required to be paid pursuant to this article, the commissioner may require the payment of an annual service charge of six dollars and twenty-five cents upon the issuance of a radio operator number plate which he, in his discretion, is hereby authorized to do as provided by this paragraph. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in this paragraph in effect on and after September first, two thousand nine and the registration fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

B. A number plate issued pursuant to this paragraph shall be issued in the same manner as other number plates are issued pursuant to this article to persons making application therefor. Such plate shall contain not more than eight letters, numerals or any combination thereof which are the permanent radio call letters assigned to an amateur radio operator by the federal communications commission. The provisions of this paragraph shall not apply to any number plate reserved or issued pursuant to any other provision of this article.

g. In addition to the other fees provided for in this section, the commissioner shall, upon the application for the registration of a motor vehicle or the renewal thereof, collect any tax imposed pursuant to the authority of chapter one thousand thirty-two of the laws of nineteen

hundred sixty, if the city imposing such tax enacts a local law providing for the collection of such tax by the commissioner and enters into the required agreement relating thereto.

7. Registration fees for auto trucks, tractors, buses, taxicabs, livery and certain other motor vehicles. The registration fees to be paid upon the registration or reregistration, in accordance with the provisions of this article, of buses, of motor vehicles constructed or specially equipped for the transportation of goods, wares and merchandise, commonly known as auto trucks or light delivery cars, of taxicabs, livery and of certain other motor vehicles specified herein are hereby established as follows:

A. Schedule for buses.

For each such vehicle having a seating capacity for passengers of five passengers or less, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of twenty-one dollars and fifty-six cents.

For each such vehicle having a seating capacity for passengers of not less than six passengers, nor more than seven passengers, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of thirty-five dollars and twenty-three cents.

For each such vehicle having a seating capacity for passengers of not less than eight passengers, nor more than ten passengers, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of forty-three dollars and eighty-five cents.

For each such vehicle having a seating capacity for passengers of not less than eleven passengers, nor more than fourteen passengers, and

meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of sixty-one dollars and eighty-one cents.

For each such vehicle having a seating capacity for passengers of not less than fifteen passengers, nor more than twenty passengers, the annual fee of seventy-four dollars and seventy-five cents.

For each such vehicle having a seating capacity for passengers of not less than twenty-one passengers, nor more than twenty-two passengers, the annual fee of seventy-nine dollars and six cents.

For each such vehicle having a seating capacity for passengers of not less than twenty-three passengers, nor more than twenty-six passengers, the annual fee of eighty-eight dollars and forty-one cents.

For each such vehicle having a seating capacity for passengers of not less than twenty-seven passengers, nor more than thirty passengers, the annual fee of ninety-seven dollars and four cents.

For each such vehicle having a seating capacity for passengers in excess of thirty passengers, the fee of ninety-seven dollars and four cents, and the additional fee of two dollars and eighty-eight cents for each passenger (measured by seating capacity) in excess of thirty passengers.

For the purposes of this schedule, the term "seating capacity for passengers" shall exclude the driver.

The words "seating capacity for passengers", as used in this section, shall mean seating capacity for adults. The commissioner shall have authority to determine, for registration purposes, the manner of computing the seating capacity of any vehicle.

Provided, however, that in the case of a bus operated entirely by electricity not generated by an engine contained therein the fees to be

paid upon registration or reregistration thereof shall be fifty per centum in excess of the foregoing rates.

The foregoing schedules shall not apply to omnibuses operated pursuant to a franchise or franchises over streets designated in said franchise or franchises wholly within a city or cities, provided the holder of the franchise or franchises pays for the same a percentage of its gross earnings or gross receipts and for any such omnibus, without regard to the seating capacity; nor shall the foregoing schedules apply to omnibuses operated pursuant to a certificate of public convenience and necessity granted under the transportation law and based upon the consent of the local authorities of any city, town or village, other than in the counties of Nassau, Suffolk and Westchester, as required by the transportation corporations law or, in the county of Nassau, based upon the consent of the board of supervisors of such county or of any city or village therein, or of both such county and any city or village therein or, in the counties of Suffolk and Westchester, based upon the consent of the county board of legislators of such counties, as required by chapter eight hundred seventy-nine of the laws of nineteen hundred thirty-six, provided the holder of such local consent pays for the same an annual fee to any such county, city, town or village, and for any such omnibus, without regard to the seating capacity, the annual fee shall be twelve dollars and fifty cents. The foregoing schedules shall not apply to trackless trolleys, but if such omnibus shall not be operated in local transit service pursuant to a certificate of convenience and necessity issued by the commissioner of transportation the foregoing schedule of fees shall apply.

B. Schedule for tractors, auto trucks and light delivery cars.

1. For each auto truck or light delivery car, the annual fee of three dollars and sixty cents for each five hundred pounds maximum gross weight or fraction thereof, except that the annual fee for such motor vehicle operated entirely by electricity not generated by an engine contained therein shall be five dollars and thirty-nine cents for each five hundred pounds maximum gross weight or fraction thereof, but in computing the weight of such an electric vehicle the weight of electric

batteries shall be excluded and except also that the annual fee for each auto truck having a maximum gross weight in excess of eighteen thousand pounds used exclusively in the transportation of household goods (as defined by the commissioner of transportation of this state or the interstate commerce commission) by a carrier under authority of the commissioner of transportation of this state or of the interstate commerce commission shall be nine dollars and seventy cents for each five hundred pounds maximum gross weight or fraction thereof. Provided however, that no motor vehicle registered pursuant to this paragraph may be charged a registration fee in excess of that charged for a motor vehicle registered with a maximum gross weight of eighty thousand pounds.

2. For each tractor of any weight the annual fee of one dollar and fifty-one cents for each one hundred pounds, or major fraction thereof, of maximum gross weight, except that the annual fee for each tractor of any weight used exclusively in the transportation of household goods (as defined by the commissioner of transportation of this state or the interstate commerce commission) by a carrier under authority of the commissioner of transportation of this state or of the interstate commerce commission shall be two dollars and sixteen cents for each one hundred pounds, or major fraction thereof, of maximum gross weight. Provided however, that no motor vehicle registered pursuant to this paragraph may be charged a registration fee in excess of that charged for a motor vehicle registered with a maximum gross weight of eighty thousand pounds.

3. For the purpose of this schedule, maximum gross weight of an auto truck or light delivery car shall mean the weight of the motor vehicle plus the weight of the maximum load to be carried by such motor vehicle during the registration period. For the purposes of this schedule, maximum gross weight of a tractor shall be the weight of the tractor, plus the unladen weight of any semitrailer drawn thereby, plus the weight of the maximum load to be carried on the tractor and on any semitrailer drawn by such tractor during the registration period, but shall not include the weight or load of a semitrailer, used with a device for converting it to a trailer, when being drawn by a tractor

semitrailer combination on the New York state thruway as part of a double tandem combination. The weight of the motor vehicle and such maximum load as stated on the application for registration shall be subject to audit and approval by the commissioner of motor vehicles.

C. Schedule for taxicabs and livery. 1. For each taxicab or livery having a seating capacity for passengers, excluding the driver, of five persons or less, the annual fee of thirty-one dollars and sixty-three cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of not less than six persons, nor more than seven persons, the annual fee of fifty-one dollars and seventy-five cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of at least eight persons, but not more than ten persons, the annual fee of sixty-four dollars and sixty-nine cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of at least eleven persons, but not more than fourteen persons, the annual fee of ninety-two dollars. Any registration issued pursuant to this schedule shall be revoked upon receipt by the commissioner of a notice of revocation of any license or permit necessary for the issuance of such registration from the local authority which issued such license or permit, or upon receipt of evidence by the commissioner that the registrant has been convicted of a violation of any local law requiring the issuance of a license or permit in order to engage in for-hire operation. Provided, however, that upon surrender to the commissioner of any such revoked registration and number plates and upon payment of the proper registration fee, a registration may be issued for the vehicle for which such registration has been revoked pursuant to the provisions of subdivision six of this section.

2. For purposes of this schedule, the term "livery" shall also include a motor vehicle with a driver having a seating capacity of at least nine but not more than fourteen passengers used to carry passengers for hire in a commuter van service under an authorization issued by a municipality.

D. Schedule for hearses, and certain ambulances. 1. For each hearse, the annual fee of one dollar and twenty-four cents for each one hundred

pounds, or major fraction thereof, of unladen weight.

2. For each ambulance used in the business of carrying or transporting sick or injured persons for hire or profit, the annual fee of one dollar and twenty-four cents for each one hundred pounds or major fraction thereof, of unladen weight.

E. Schedule for agricultural trucks and agricultural trailers. 1. For each agricultural truck and agricultural trailer, the annual fee of two dollars and fifty-one cents for each five hundred pounds maximum gross weight, or fraction thereof.

2. For the purposes of this schedule an "agricultural truck" shall be a truck and an agricultural trailer shall be a trailer, other than a coach or house trailer or semitrailer, owned by a person engaged in production by means of (a) the planting, cultivation and harvesting of agricultural, vegetable and food products of the soil, including horticultural specialties such as nursery stock, ornamental shrubs, ornamental trees and flowers, (b) the raising, feeding and care of live stock, bees and poultry or (c) dairy farming. Such agricultural truck and agricultural trailer shall be used only for the transportation of his own agricultural or dairy commodities or supplies or for personal passenger use, or use in conjunction with lumbering operations connected with but only incidental to the operation of a farm.

3. A motor vehicle registered as an "agricultural truck" under this schedule and a trailer registered as an "agricultural trailer" under this schedule shall be operated on the public highways only for the purposes set forth in paragraph two hereof.

4. An agricultural truck and an agricultural trailer may be registered or reregistered for periods of less than one calendar year upon application forms furnished by the commissioner for such purpose, and the annual fees as provided in this schedule shall be reduced proportionately on a monthly computation basis.

F. Schedule for certain motor vehicles. (a) For each road roller,

tractor crane, truck crane, power shovel, road building machine, snow plow, road sweeper, sand spreader, well driller, well servicing rig, feed processing machine, mobile car crusher (whether self-propelled or a combination used exclusively as one unit), earth mover, which shall mean a motor-driven vehicle in excess of eight feet in width equipped with pneumatic tires designed and constructed for moving or transporting earth and rock in connection with excavation and grading work, and truck with small wheels used in a factory, warehouse or railroad station, for each spreader or sprayer (generally meaning an agricultural vehicle used to spread or spray agricultural chemicals, agricultural lime and/or agricultural fertilizers) and fire vehicles, an annual fee of fourteen dollars and thirty-eight cents; provided, however, that the provisions of paragraph b of subdivision six of this section relating to the exemption of certain motor vehicles from the payment of registration fees thereon shall apply to the motor vehicles specified in this schedule. A tractor-trailer combination designed and used as a unit exclusively for the same purpose as a vehicle specifically included in this schedule shall be considered as a single vehicle and registered as a motor vehicle under this schedule rather than as a tractor and trailer separately.

(b) As used in this schedule, the term "snow plow" shall not include farm type tractors used exclusively for agricultural purposes, or for snow plowing other than for hire, as defined in section one hundred twenty-five of this chapter, when used for plowing or removing snow, provided such plowing or snow removal is not done for hire.

No person shall operate or move, or cause or knowingly permit to be operated or moved on any public highway in this state any auto truck, agricultural truck or light delivery car, registered in this state, having a combined weight of vehicle and load in excess of the maximum gross weight for such vehicle as stated on the application for registration. Such maximum gross weight cannot be more than the weight permitted under section three hundred eighty-five of this chapter or the weight permitted by the rules or regulations of the department of transportation of any city not wholly included within one county or under permits that may be issued pursuant to such section, rules or regulations whichever is the least restrictive.

G. Schedule for historical motor vehicles. For each motor vehicle which is owned and operated as an exhibition piece or collectors item, and is used for participation in club activities, exhibit, tours, parades, occasional transportation and similar uses, but not used for general daily transportation, an annual fee of twenty-eight dollars and seventy-five cents. For purposes of this paragraph, a historical motor vehicle shall mean any vehicle manufactured more than twenty-five years prior to the current calendar year, and any other model, year and type vehicle which has unique characteristics and which is determined by the commissioner to be of historical, classic or exhibition value. Registration plates for such vehicles shall be of a type and design approved by the commissioner, but shall be of a distinctive nature. Except that, with the approval of the commissioner, an owner of any such vehicle may utilize registration plates issued in the year corresponding to the model year date in which the vehicle was manufactured, if the registration plate is legible, durable, and serviceable, of this state, and accurate in color, as determined by the department. Nothing in this paragraph shall be construed to prohibit the use of previously issued registration plates that have been restored, without deviation from their original alphanumeric or pictorial content, to such condition as otherwise satisfies all applicable requirements. Such plates shall be used only for the operation of the motor vehicle listed on the registration application and on other motor vehicles which would qualify for registration under this schedule owned by persons other than the registrant for the purpose of test driving by the registrant or his or her agent in anticipation of possible purchase. No such registration will be issued unless evidence of financial security, in a form prescribed by the commissioner, is submitted which provides coverage for the motor vehicle listed on the registration application and for non-owned motor vehicles being operated with such plates.

H. Schedule for tow trucks. For each tow truck registered pursuant to section four hundred one-b of this article, the annual fee of two dollars and eighty-eight cents for each five hundred pounds maximum gross weight or fraction thereof. For the purposes of this schedule, the maximum gross weight of a tow truck shall include the weight of any

vehicle transported wholly upon the tow truck, but shall not include the weight of any vehicle transported partly upon the tow truck and partly on its own wheels or a dolly.

I. Schedule for leased and rental vehicles. 1. The annual fee for each leased vehicle and for each rental vehicle, other than a motorcycle or a rental vehicle of the passenger vehicle or suburban type, shall be the annual fee which would be required to be paid for such vehicle if it were not a leased or rental vehicle.

2. For each rental vehicle of the passenger or suburban type having a seating capacity for passengers, including the driver, of five persons or less, the annual fee of fifty-three dollars and nineteen cents. For each such vehicle having a seating capacity for passengers, including the driver, of not less than six persons, nor more than seven persons, the annual fee of seventy-four dollars and seventy-five cents. For each such vehicle having a seating capacity for passengers, including the driver, of at least eight persons, but not more than ten persons, the annual fee of eighty-six dollars and twenty-five cents. For each such vehicle having a seating capacity for passengers, including the driver, of at least eleven persons, but not more than fifteen persons, the annual fee of one hundred thirteen dollars and fifty-six cents.

J. Schedule for vanpool vehicles. The annual fee for each vanpool vehicle shall be the annual fee which would be required to be paid for such vehicle if it were not used for the purpose of vanpooling. Registration plates for such vehicles shall be of a type and design approved by the commissioner, and shall include the word VANPOOL on the face of the registration plate. Such plate shall be issued at the request of the registrant upon proof, satisfactory to the commissioner, that the vehicle is to be used for the purpose of vanpooling.

K. Schedule for heavy duty vehicles: Notwithstanding any inconsistent provision of this section, the registration fee for any vehicle described in this paragraph shall be increased by up to three and twenty-five one hundredths percent of such registration fee in effect on September first, two thousand nine, to fund the direct and indirect

costs of the development and implementation of a heavy duty emissions inspection program pursuant to section 19-0320 of the environmental conservation law, including planning, development of regulations and guidance, state implementation plan development, personnel costs attributable to the program, and enforcement costs. Such fee is authorized to be collected, commencing June first, nineteen hundred ninety-nine, at the time of registration of any vehicle required to be registered in New York having a gross vehicle weight of greater than eight thousand five hundred pounds and powered by diesel fuels except for those vehicles defined in section one hundred one of this chapter, subparagraph two of paragraph E and subparagraph (a) of paragraph F of this subdivision, and vehicles specified in subdivision thirteen of this section, and farm type tractors and all terrain type vehicles used exclusively for agricultural or mowing purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site, and timber harvesting equipment such as harvesters, wood chippers, forwarders, log skidders, and other processing equipment used exclusively off highway for timber harvesting and logging purposes. Notwithstanding any provision of law to the contrary, any fee amount collected pursuant to this paragraph shall be deposited in the clean air fund, to the credit of the mobile source account, in accordance with the provisions of section ninety-seven-oo of the state finance law. Notwithstanding any inconsistent provision of this section, the difference collected between the increase of the percentage of the registration fees set forth in this schedule in effect on and after September first, two thousand nine and the percentage of the registration fees set forth in this schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

L. Notwithstanding the provisions of paragraph K of this subdivision, no fee shall be charged upon the registration of any vehicle exempt from the payment of registration fees under paragraph b of subdivision six of this section.

8. Registration fees for trailers. a. The provisions of this chapter in relation to registration books and registration, certificates of registration, number plates, duplicates of certificates and number plates, times of registration and reregistration and the duration thereof, for motor vehicles, shall apply also to trailers. The following fees shall be paid upon the registration or reregistration of a trailer, other than a coach or house trailer or a semitrailer, in accordance with the provisions of this article: The annual fee of five dollars and thirty-nine cents for each five hundred pounds or fraction thereof of maximum gross weight but in no case shall the annual fee be less than fourteen dollars and thirty-eight cents. The following fees shall be paid upon the registration or reregistration of a coach or house trailer in accordance with the provisions of this article: The annual fee of one dollar and seventy-three cents for each one hundred pounds or major fraction thereof of unladen weight but in no case shall the annual fee be less than twenty-one dollars and fifty-seven cents. The following fees shall be paid upon the registration or reregistration of a semitrailer in accordance with provisions of this article: The annual fee of twenty-eight dollars and seventy-five cents. However, upon the request of the applicant upon the registration or renewal of a registration of a nineteen hundred eighty-nine or later model year semitrailer, such semitrailer may be registered for a period of not less than five and one-half nor more than six and one-half years for a fee of eighty-six dollars and twenty-five cents. A semitrailer, used with any device for converting it to a trailer, other than one being drawn by a tractor semitrailer combination as part of a double tandem combination, shall be registered as a trailer.

For the purposes of this paragraph, the unladen weight of a coach or house trailer shall include the weight of any equipment permanently attached to or installed in such trailer. Notwithstanding the foregoing provisions and pursuant to regulations and limitations to be established by the commissioner and upon payment of a fee of two dollars and thirty cents therefor a temporary permit to move a coach or house trailer on the public highways from one site to another shall be issued to the owner thereof upon application therefor. Such application shall be made in the manner prescribed by the commissioner.

b. For the purposes of this subdivision, as applied to a trailer other than a coach or house trailer or a semitrailer, maximum gross weight shall mean the weight of the trailer plus the weight of the maximum load to be carried by such trailer during the registration period. The weight of the trailer and such maximum load as stated on the application for registration shall be subject to audit and approval by the commissioner of motor vehicles.

c. No person shall operate or move, or cause or knowingly permit to be operated or moved on any public highway of this state any combination of a tractor registered in this state and a semitrailer having a combined weight of vehicles and load in excess of the maximum gross weight of the tractor as stated on the application for registration of such vehicle. Such maximum gross weight cannot be more than the weight permitted under section three hundred eighty-five of this chapter or the weight permitted by the rules or regulations of the department of transportation of any city not wholly included within one county or under permits that may be issued pursuant to such section, rules or regulations whichever is the least restrictive.

d. No person shall operate or move, or cause or knowingly permit to be operated or moved on any public highway of this state any trailer, other than a coach or house trailer or a semitrailer, registered in this state, having a combined weight of vehicle and load in excess of the maximum gross weight of such trailer as stated on the application for registration of such vehicle.

9. Correction of registration. a. Where a motor vehicle registered under this article requires registration in another class because of a change in its form or use, an application for the correct registration may be granted upon the surrendering of the certificate of registration and number plates and the payment of a fee of one dollar, together with the excess, if any, of the fee for the correct registration over the fee for the registration in the class in which the vehicle is registered, both fees to be computed as of the date of granting the correct registration; provided, however, that if the vehicle has already been

registered in more than one class during the year, the class requiring the highest fee shall be taken as the basis in determining the additional fee, if any, to be paid instead of the class in which the vehicle is registered at the time of the application.

b. Where a vehicle registered under the provisions of subdivisions seven or eight of this section on the basis of maximum gross weight requires a corrected registration because of a load in excess of the maximum load as certified in the application for registration, or the registrant desires to register the vehicle at a lower gross maximum weight, an application shall be made for correct registration. Upon the surrendering of the certificate of registration and the payment of a fee of two dollars together with the balance of the annual fee for the correct registration over the fee as previously registered, such corrected registration may be issued. No return of any part of the fee paid for the previous registration shall be made in case of a reduction of maximum gross weight certified in the application for a corrected registration.

9-a. Whenever a registration fee prescribed in subdivision six, seven or eight of this section shall amount to a fee other than a whole dollar amount, the fee required to be paid shall be rounded to the nearest twenty-five cents.

10. Fees in lieu of taxes. The registration fees imposed by this article upon motor vehicles, other than those of manufacturers and dealers, shall be in lieu of all taxes, general or local, to which motor vehicles may be subject.

11. A motor vehicle, which does not fall within the definition of the term bus, used to transport pupils, or pupils and teachers, to and from school and not otherwise used to transport passengers for hire shall not be registered as a taxicab or livery because of such use.

12. Registration fee for "forty and eight trains." Notwithstanding any of the provisions of this chapter, the annual registration fee for a motor vehicle, commonly described as a boxcar and/or locomotive, duck

and tank and used only by La Societe des 40 Hommes et 8 Chevaux for civic demonstrations, convention purposes or social welfare work, shall be five dollars.

12-a. Permanent fleet registration. The commissioner may provide for a system of extended registration for vehicles a registrant wishes to register as a fleet. The fee required for the registration of each vehicle registered in such system shall be the same fee which would be required if the vehicle was otherwise registered under this section plus an additional two dollar administrative fee. The commissioner may establish the minimum number of vehicles required to be registered as a fleet, the types of vehicles which may be registered in a fleet, the term of validity of any such registration, qualifications for fleet registrants and, notwithstanding any other provisions of this article to the contrary, procedures for registration in a fleet, times and methods of payment of required fees and the display and/or surrender of number plates and tags or other evidence of fleet registration. The commissioner may prescribe rules and regulations to carry out the provisions of this subdivision.

13. Registration of motor vehicles, trailers and semitrailers operated upon public highways connecting portions of a farm or farms, municipal sanitary landfills, licensed motor vehicle repair shops and the point of sale of the vehicle. Motor vehicles, other than motor vehicles manufactured and equipped primarily for the transportation of passengers, trailers and semitrailers, to be operated by any person, upon a public highway for the purpose of traveling by the most direct route, but in no event further than twenty-five miles one-way from a point on the farm as designated by the vehicle owner and which designated point is set forth in an attachment to the vehicle registration, (a) between fields, buildings, and facilities managed or operated as part of a single farm enterprise in connection with the production, harvesting, processing or marketing on that farm of crops, livestock, or livestock products produced on that farm; or (b) for the purpose of transporting materials from a farm to the nearest available municipal sanitary landfill; or (c) for the purpose of transporting the motor vehicle, trailer or semitrailer to a motor vehicle repair shop

licensed pursuant to this chapter for the repair or adjustment of equipment provided that, in addition to the route restrictions set forth in this subdivision, no such transport shall be authorized (i) if such vehicle has an out-of-service defect relating to load securement, brake systems, steering components and/or coupling devices, or after it has been placed out-of-service; (ii) on any limited access highway; and (iii) during the period of one hour before sunset to one hour after sunrise; or (d) for the purpose of transporting the motor vehicle, trailer or semitrailer, at the time of first receipt, from its point of sale to a farm, may be registered as provided in this subdivision. Every owner of such vehicles may cause to be filed by mail or otherwise, with the commissioner or with any agent of the commissioner, an application for registration of such vehicle, addressed to the commissioner, and on a blank to be furnished by the commissioner for that purpose, containing the information required by subdivision one of this section and such other information as the commissioner shall require. The commissioner or agent shall make such investigation, as he or she shall determine necessary, and if satisfied that the vehicle is to be operated exclusively as provided in this subdivision shall, upon the payment of a fee of one dollar, assign to such vehicle a distinctive number and issue and deliver to the applicant a set of number plates and a certificate of registration in such form as the commissioner shall prescribe, indicating the extent to which the vehicle registered may be operated on the public highways and such vehicle may be operated only as so indicated. For the purposes of this subdivision, the terms "farm" and "crops, livestock or livestock products," shall have the same meaning as "land used in agricultural production" and "crops, livestock and livestock products," respectively, as defined in section three hundred one of the agriculture and markets law, except that farmers with an average gross sales value of at least one thousand dollars per year of crops, livestock, and livestock products shall be eligible to register vehicles pursuant to this subdivision.

15. The commissioner is authorized to make necessary rules and regulations as may be appropriate for the proper enforcement of the provisions of this section with respect to the registration of auto trucks, agriculture trucks, light delivery cars, tractors and trailers.

16. a. Notwithstanding any other provision of this chapter or other law, or rule or regulation, a specialized vehicle shall be classified as a passenger vehicle and shall be registered accordingly. Such vehicle may use any highway which is restricted to passenger use only.

b. For the purpose of this subdivision, "a specialized vehicle" shall mean any vehicle having a gross weight not exceeding sixty-nine hundred ninety-nine pounds, regardless of seating or window arrangements, which is equipped or modified with a powered lift or ramp or containing any other physical device or alteration for the purpose of accommodating a wheelchair or permitting access of a wheelchair-bound person, and which is intended to be used for the transportation of a disabled person or persons confined to a wheelchair.

17. The provisions of this chapter with respect to the issuance and display of number plates shall not apply to trucks that are used on the highways only in crossing from one point in the owners property to another point in the property of such owner where the route traveled by such trucks does not adjoin the lands of another owner; provided, however, that such vehicles shall comply in all respects with the provisions of article six of this chapter.

17-a. The commissioner shall permit the use of distinctive license plates reserved for use by emergency medical technicians on a van or pickup truck owned and operated by such person where such vehicle is not used for commercial purposes.

18. A violation of subdivision one of this section shall be punishable by a fine of not less than seventy-five nor more than three hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment except, if the violation consists of failure to renew a registration which was valid within sixty days, the fine shall be not less than forty dollars. A violation of subdivision seven or eight of this section shall be punishable by a fine of not less than one hundred fifty nor more than three hundred seventy-five dollars, or by imprisonment for not more than thirty days, or by both such fine and

imprisonment, for the first offense, except where the violation was committed with a vehicle having a maximum gross weight of less than eighteen thousand pounds the violation should be punished by a fine of not less than forty nor more than three hundred seventy-five dollars; by a fine of not less than three hundred seventy-five dollars nor more than seven hundred fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of said subdivision seven or eight of this section, the registration of the vehicle may be suspended for a period of not less than ten days nor more than six months whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein.

19. No owner of a motor vehicle shall cause to be presented, by mail or otherwise, to the office or a branch office of the commissioner, or to any agent of the commissioner, an application for registration of a vehicle which violates any weight limitations contained in the provisions of section three hundred eighty-five of this chapter or the weight permitted by the rules or regulations of any city not wholly included within one county or under permits that may be issued pursuant to such section, rules or regulations whichever is the least restrictive.

19-a. If a vehicle or combination of vehicles is operated in violation of this section, an appearance ticket or summons may be issued to the registrant of the vehicle, or if a combination of vehicles, to the registrant of the hauling vehicle rather than the operator. In the event the vehicle is operated by a person other than the registrant, any appearance ticket or summons issued to the registrant shall be served upon the operator, who shall be deemed the agent of the registrant for the purpose of receiving such appearance ticket or summons. Such operator-agent shall transmit such ticket or summons to the registrant of the vehicle or the hauling vehicle. If the registrant does not appear on the return date, a notice establishing a new return date and either

containing all pertinent information relating to the charge which is contained on the summons or appearance ticket or accompanied by a copy of the information or complaint shall also be mailed by certified or registered mail by or on behalf of the court or administrative tribunal before whom the appearance ticket or summons is returnable to the registrant at the address given on the registration certificate for the vehicle, or if no registration certificate is produced at the time the appearance ticket or summons is issued, to the address of the registrant on file with the department or given to the person issuing the appearance ticket or summons. Whenever proceedings in a court or administrative tribunal of this state result in a conviction for a violation of this section, and the court or administrative tribunal has made the mailing specified herein, the court or administrative tribunal shall levy a mandatory surcharge, in addition to any sentence or other surcharge required or permitted by law, in the amount of thirty dollars. This mandatory surcharge shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge by a town or village court, the court shall pay such money to the state comptroller who shall, pursuant to subdivision two of section ninety-nine-a of the state finance law, credit such money to the account of the town or village which sent the mandatory surcharge. If such collecting authority is any other court of the unified system or administrative tribunal it shall, within such period, pay such money to the state comptroller who shall deposit such money into the state treasury. The provisions of this subdivision shall not apply to owner-operators of any motor vehicle or to any motor vehicle or trailer which is registered in the name of a person whose principal business is the lease or rental of motor vehicles or trailers unless the motor vehicle or trailer is being operated by an employee of the registrant or for a community of interest other than the lease or rental agreement between the parties to the lease or rental agreement.

21. The commissioner shall deposit daily the percentages listed below of all fees collected or received by the commissioner after March thirty-first, nineteen hundred ninety-three pursuant to certain registration fees imposed by (a) paragraph a of subdivision six, (b) all

schedules of subdivision seven and (c) paragraph a of subdivision eight of this section in a responsible bank, banking house or trust company, which shall pay the highest rate of interest to the state for such deposit to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. The commissioner shall so deposit thirteen percent of all such registration fees so collected or so received after March thirty-first, nineteen hundred ninety-three, seventeen percent of all such registration fees so collected or so received after December thirty-first, nineteen hundred ninety-four, twenty percent of all such registration fees so collected or so received after December thirty-first, nineteen hundred ninety-five, twenty-eight percent of all such registration fees so collected or so received after March thirty-first, nineteen hundred ninety-eight, thirty-four percent of all such registration fees so collected or so received after June thirtieth, nineteen hundred ninety-eight, and forty-five and five-tenths percent of all such registration fees so collected or so received after January thirty-first, nineteen hundred ninety-nine. Every bank, banking house or trust company that accepts such deposits shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safe keeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank, banking house, or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney general as to its form.

The commissioner shall deposit daily the percentages listed below of all fees collected or received by the commissioner after March thirty-first, two thousand one pursuant to certain registration fees imposed by (a) paragraph a of subdivision six, (b) all schedules of subdivision seven, and (c) paragraph a of subdivision eight of this section in a responsible bank, banking house or trust company, which shall pay the highest rate of interest to the state for such deposit to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the

state finance law and the dedicated mass transportation trust fund established pursuant to section eighty-nine-c of the state finance law and to distribute such deposit pursuant to the provisions of subdivision (d) of section three hundred one-j of the tax law. In addition to the percentages specified in the opening paragraph of this section, the commissioner shall so deposit twenty-three and five-tenths percent of all such registration fees so collected or so received after March thirty-first, two thousand one and fifty-four and five-tenths percent of all such registration fees so collected or so received after March thirty-first, two thousand two. Every bank, banking house or trust company that accepts such deposits shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safe keeping and prompt payment on legal demand therefor of all such moneys held by or in deposit in such bank, banking house or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney general as to its form.

Of the revenues so deposited, the comptroller shall retain in his hands such amount as the commissioner may determine to be necessary for refunds or reimbursements of the fees collected or received pursuant to (a) paragraph a of subdivision six, (b) all schedules of subdivision seven and (c) paragraph a of subdivision eight of this section to which registrants shall be entitled under the provisions of this article, out of which amount the commissioner shall pay any refunds or reimbursements of the fees collected or received pursuant to (a) paragraph a of subdivision six, (b) all schedules of subdivision seven and (c) paragraph a of subdivision eight of this section to which registrants shall be entitled under such provisions. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the last day of each month, deposit the balance of the revenue so deposited during such month into the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation trust fund established pursuant to section eighty-nine-c of the state finance law.

Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in paragraph a of subdivision six of this section in effect on and after September first, two thousand nine and the registration fees set forth in such paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule A of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule B of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule C of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule E of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the

difference collected between the registration fees set forth in schedule F of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule G of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule I of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in subdivision eight of this section in effect on and after September first, two thousand nine and the registration fees set forth in such subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the registration fees collected pursuant to subdivisions two, six and eight of section four hundred twenty of this title shall be deposited pursuant to the provisions of this subdivision; provided, however, the difference collected between the registration fees set forth in such subdivisions two, six and eight in effect on and after September first, two thousand nine and the registration fees set forth in such subdivisions in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, the registration fees collected pursuant to paragraph (b) of subdivision three of section twenty-two hundred sixty-one of this chapter shall be deposited pursuant to the provisions of this subdivision; provided, however, the difference collected between the registration fees set forth in paragraph (b) of subdivision three of section twenty-two hundred sixty-one of this chapter in effect on and after September first, two thousand nine and the registration fees set forth in such paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

Notwithstanding any inconsistent provision of this section, eleven dollars and fifty cents of the registration fees collected pursuant to paragraph (a) of subdivision five of section four hundred ten of this title shall be deposited pursuant to this subdivision. Three dollars and fifty cents of such fees collected in relation to applications for new registrations and renewals of existing registrations expiring on and after September first, two thousand nine shall be deposited to the credit of the dedicated highway and bridge trust fund. Two dollars and fifty cents of such registration fees shall be deposited into the motorcycle safety fund established pursuant to section ninety-two-g of the state finance law.

22. The commissioner shall not register any altered motor vehicle that fails to comply, as demonstrated to the satisfaction of the commissioner, with the certification requirements established by Part 567 of title 49 of the code of federal regulations for altered vehicles.

23. The commissioner shall revoke the registration of any altered motor vehicle which fails to comply with the certification requirements of Part 567 of title 49 of the code of federal regulations, as determined by the commissioner, and refund to or credit the account of any person who paid a registration fee for an altered motor vehicle, the pro rata unused portion of such registration fee.

§ 401-a. In-transit permits. The owner of a vehicle intended to be

operated upon a public highway or street only for the purpose of transporting the same to a jurisdiction, within this state or to any other state, where the same is to be registered, may file with the commissioner or any agent of the commissioner an application for issuance of an in-transit permit for such vehicle. The application shall be made on a form furnished by the commissioner for such purpose and shall contain such information as the commissioner shall require. If satisfied that the vehicle is to be operated as provided in this section, the commissioner shall upon payment of a fee of twelve dollars and fifty cents assign to such vehicle a distinctive number and issue and deliver to the applicant an in-transit permit, valid for a period of thirty days from the date of issuance, in such form as the commissioner shall prescribe, indicating the extent to which the vehicle covered by such permit may be operated on the public highways and such vehicle may be operated only as so indicated. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this paragraph in effect on and after September first, two thousand nine and the fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

If an in-transit permit is issued by a county clerk, acting as agent of the commissioner, such county clerk shall be entitled to the sum of thirty-five cents for each such in-transit permit issued, which sum shall be deducted before remitting the fee for such in-transit permit to the commissioner.

The provisions of this chapter with respect to the issuance and display of number plates shall not apply to vehicles operated only as provided in this section, and which display the in-transit permit issued by the commissioner.

§ 401-b. Registration of tow trucks. Every motor vehicle engaged in commercial towing in this state shall be registered and identified as a tow truck, as hereinafter provided. No motor vehicle shall be registered as a tow truck unless it shall have a gross vehicle weight rating of at

least eighty-six hundred pounds and the application for such registration is accompanied by proof of financial security which shall meet the requirements of article six of this chapter. Upon payment of the fees set forth in schedule H of subdivision seven of section four hundred one of this article, such a motor vehicle shall be issued a license plate identifying it as a "tow truck". It shall constitute a class A misdemeanor to engage in commercial towing with a tow truck that is not registered pursuant to this section.

§ 402. Distinctive number; form of number plates; trailers. 1. (a) No person shall operate, drive or park a motor vehicle on the public highways of this state unless such vehicle shall have a distinctive number assigned to it by the commissioner and a set of number plates issued by the commissioner with a number and other identification matter if any, corresponding to that of the certificate of registration conspicuously displayed, one on the front and one on the rear of such vehicle, each securely fastened so as to prevent the same from swinging and placed, whenever reasonably possible, not higher than forty-eight inches and not lower than twelve inches from the ground; provided, however, that in any registration year for which only one number plate is issued, such number plate shall constitute a set of number plates for the time in which such use is authorized, shall be displayed on the rear of the vehicle and none shall be displayed on its front, except in case of a tractor, when such number plate shall be displayed on the front of the vehicle and none shall be displayed on its rear.

(b) (i) Number plates shall be kept clean and in a condition so as to be easily readable.

(ii) Number plates shall not be knowingly covered or coated with any material or substance that conceals or obscures such number plates or that distorts a recorded or photographic image of such number plates.

(ii-a) Number plates shall not be covered by glass or any plastic material, nor shall they be covered with a material appearing to be a number plate for display as proof of lawful registration but which has not been lawfully issued by the commissioner, the commissioner's agent, or the equivalent official or agents from another state, territory, district, province, nation or other jurisdiction.

(iii) The view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon, except for a receiver-transmitter issued by a publicly owned tolling facility in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle in accordance with mounting instructions provided by the tolling facility.

2. Such number plates shall be of such material, form, design and dimensions and contain or set forth such distinguishing number or other identification marks as the commissioner shall prescribe, provided, however, that there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon, and provided further that no vehicle shall display the number plates of more than one state at a time except where the vehicle is required to be registered in more than one state, and provided further that the number plates of a rental vehicle shall not display any indication of the rental status of such vehicle nor shall any plate be used other than those issued by the commissioner.

3. No person shall operate or drive a motor vehicle drawing a trailer on the public highways of the state, unless such trailer shall have a distinctive number assigned to it by the commissioner and a number plate issued by such commissioner with a number corresponding to that of the certificate of registration displayed and fastened on the rear in the manner provided for number plates on the rear of a motor vehicle. The provisions of subdivision two of this section relating to number plates for motor vehicles shall apply to number plates for any such trailer. The provisions of this subdivision shall not apply when a newly constructed trailer is being drawn to or from a weighing station solely for the purpose of determining the weight thereof.

4. No person shall operate or drive a motor vehicle upon the public highways of this state having displayed thereon number plates not proper for such vehicle under the provisions of this chapter and, upon a conviction for this offense, the number plates shall be surrendered to the court for delivery to the commissioner. The failure to produce the certificate of registration or registration renewal stub of a vehicle

shall be presumptive evidence of displaying number plates not proper for the vehicle. Every annual number plate issued shall remain the property of the state until the correct registration fee is paid. Every number plate of a permanent nature for use with a removable date tag which shall be issued shall remain the property of the state unless and until the commissioner finds that the state no longer has use for it. Number plates belonging to the state shall be under the control of the commissioner.

5. No person shall knowingly authorize or permit a number plate issued for a motor vehicle or trailer owned and registered by him to be displayed on any motor vehicle or trailer other than a motor vehicle or trailer to which such number plate has been assigned by the commissioner, or upon which such number plate may legally be displayed under a temporary certificate of registration issued by a dealer under the provisions of section four hundred twenty of this chapter.

6. No owner shall knowingly cause or permit a vehicle owned by him to be operated, driven or parked upon the public highways of this state in violation of this section. Any violation of this section that occurs while a motor vehicle is parked on the public highways of this state shall constitute a parking violation.

7. It shall be unlawful for any person, firm, partnership, association, limited liability company or corporation to sell, offer for sale or distribute any:

(a) artificial or synthetic material or substance for the purpose of application to a number plate that will, upon application to a number plate, distort a recorded or photographic image of such number plate; or

(b) plate cover, material or device for the purpose of installation on, near or around a number plate that will, upon installation on, near or around a number plate, obstruct or obscure all or any part of the distinguishing number or other identification marks of such number plate; or

(c) a material appearing to be a number plate for display as proof of lawful registration but which has not been lawfully issued by the commissioner, the commissioner's agent, or the equivalent official or

agents from another state, territory, district, province, nation or other jurisdiction.

8. A violation of this section shall be punishable by a fine of not less than twenty-five nor more than two hundred dollars, except that:

(a) A violation of subparagraph (ii), subparagraph (ii-a) or subparagraph (iii) of paragraph (b) of subdivision one of this section shall be punishable by a fine of not less than one hundred nor more than five hundred dollars.

(b) A person convicted of a violation of subparagraph (ii-a) of paragraph (b) of subdivision one of this section shall surrender the glass or plastic covering or material appearing to be a number plate, as applicable, to the court or administrative tribunal for delivery to the commissioner.

(c) Upon conviction of a violation of subparagraph (ii) of paragraph (b) of subdivision one of this section, the court or administrative tribunal having jurisdiction may, in addition to any penalty that may be imposed for such violation, order the removal of any material or substance that conceals or obscures such number plates or the replacement of such number plates.

§ 402-a. Facsimile license plates. 1. No person shall manufacture, sell, or offer for sale a decorative or facsimile license plate of a size, shape, color and design which is identical with the size, shape, color and design of license plates issued by the department.

2. Notwithstanding subdivision one of this section, the commissioner may authorize the manufacture and sale of decorative or facsimile license plates which are identical to those issued by the department for special events or productions.

3. Whenever there shall be a violation of this section, application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such

violation or to enforce the provisions of this section; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. Whenever the court shall determine that a violation of this section has occurred the court may impose a civil penalty of not more than five hundred dollars for each violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and issue subpoenas in accordance with the civil practice law and rules.

§ 402-b. Obscured and obstructed license plates. 1. If any vehicle is driven or operated on a public highway in violation of subparagraph (ii), (ii-a), or (iii) of paragraph (b) of subdivision one of section four hundred two of this article and is committed in their presence, a police officer, as defined in section one hundred thirty-two of this chapter, shall be authorized to take such actions as may be required or permitted by the provisions of this section.

2. If the vehicle is being driven or operated in violation of subparagraph (ii), (ii-a) or (iii) of paragraph (b) of subdivision one of section four hundred two of this article, such officer shall issue a summons, provided, however, that a summons shall not be issued if, in the discretion and at the request of such officer, the defect is corrected in the presence of such officer. The refusal of a police officer to permit the repair of any defect in their presence shall not be reviewable, and shall not be a defense to any violation charged in a summons issued pursuant to the provisions of this section.

3. Any complaint issued for any violation of subparagraph (ii), (ii-a) or (iii) of paragraph (b) of subdivision one of section four hundred two of this article may be dismissed by the court before which the summons is returnable if the violation as set forth in the summons is corrected not later than one-half hour after sunset on the first full business day after the issuance of the summons and proof of such correction is

submitted to the court or administrative tribunal. For the purposes of this subdivision, "business day" shall mean any calendar day except Saturday and Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

§ 403. Number plates continued. 1. Notwithstanding any other provision of this chapter, the commissioner, upon registration or reregistration of any vehicle required to be registered under this chapter, may continue the use of number plates for an additional period as may be determined by him, in which event he shall issue and deliver a tag or other evidence of registration, which shall be attached or affixed in such manner as he may prescribe by regulation. The failure to affix or display such tag or other evidence of registration, in the manner prescribed by the commissioner, shall constitute a violation of this section. The removal from any vehicle, other than by the owner of the vehicle or person authorized by such owner or by a police officer in the performance of his duties, of such tag or other evidence of registration shall constitute a class B misdemeanor.

2. Notwithstanding the provisions of subdivision one of this section, the commissioner, upon registration or reregistration of any vehicle required to be registered under this chapter between July first, nineteen hundred eighty-six and June thirtieth, nineteen hundred eighty-eight, shall issue a new number plate or plates to each registrant or reregistrant, and provided further an emblem bearing the likeness of the Statue of Liberty shall appear on the number plate or plates except that such emblem, in the discretion of the commissioner, need not appear on a number plate or plates less than ten inches long. The commissioner shall promulgate rules and regulations for plate reissuance including which plates will be required to be replaced in which year. The commissioner is authorized to take whatever actions are necessary to ensure that the transaction necessary for the reissuance of such number plate or plates shall be accomplished by mail so as to minimize the need for the reregistrant to process the transaction in person.

3. a. Upon the request of an applicant and payment by the applicant of a one-time fee not to exceed twenty dollars, and subject to regulations promulgated by the commissioner, the commissioner shall provide a number plate or plates bearing the same distinctive numerals and/or letters as the number plate being replaced. Such one-time fee shall be in addition to the regular fee prescribed by section four hundred one of this article.

b. Notwithstanding the provisions of paragraph a of this subdivision, no such one-time fee shall be charged for any plate subject to the provisions of section four hundred four or four hundred four-l of this article, for which an annual service charge is paid in addition to the regular fee prescribed by section four hundred one of this article.

c. Nothing contained in paragraph a of this subdivision shall be deemed to authorize the imposition of a fee for a number plate or plates which is higher than any fee otherwise authorized by this chapter.

§ 403-a. Temporary indicia of registration. The commissioner may promulgate regulations to provide for temporary indicia of registration which shall permit a person to operate or park a motor vehicle or trailer on the public highways of this state without number plates issued by the commissioner or validating stickers for a period not to exceed fifteen days when the number plate or plates or validating sticker for such motor vehicle or trailer has been lost, stolen, mutilated or destroyed. Such regulations may provide for the charging of a fee of not more than three dollars for any issuance of temporary indicia of registration. Any person who operates or parks a motor vehicle or trailer on the public highways of this state, which motor vehicle or trailer is in fact validly registered pursuant to the provisions of section four hundred one or four hundred ten of this chapter, without a number plate or plates or validating sticker, and who has complied with any such regulations promulgated by the commissioner under this section shall not be deemed to be operating or parking a motor vehicle or trailer in violation of subdivision one or three of

section four hundred two or section four hundred three of this chapter. Falsifying any temporary indicia of registration prescribed by any regulation of the commissioner issued pursuant to this section shall be a traffic infraction.

§ 403-b. Sales of special number or distinctive license plates by certain dealers. 1. A dealer, retail dealer, new motor vehicle dealer or qualified dealer holding a certificate of registration issued pursuant to section four hundred fifteen of this title shall be authorized to obtain or order special number or distinctive license plates for a purchaser of a vehicle from such dealer in return for a processing fee not to exceed five dollars. Such dealer shall not be required to secure a license pursuant to section three hundred ninety-five of this chapter.

2. The commissioner is hereby authorized to promulgate rules and regulations necessary to implement the provisions of this section including, but not limited to, the provision of a credit for number plates or other interim or temporary plates issued in advance of the receipt of the special number or distinctive plate, and the requirement that dealers authorized by this section disclose the initial and annual fees applicable to any special number and distinctive plates that are ordered. The processing fee authorized in subdivision one of this section shall apply only upon orders of special or distinctive plates and shall be in addition to any other fee or fees authorized by regulation and charged by such dealers for obtaining motor vehicle registrations and/or titles.

§ 404. Issuance of special number plates. 1. The commissioner may issue special number plates to applicants therefor in the same manner as other number plates are issued pursuant to this article. Such special number plates shall be issued only upon payment of an annual service charge of thirty-one dollars and twenty-five cents in addition to the regular fee prescribed by section four hundred one of this article. Application for special number plates shall be made in accordance with regulations promulgated by the commissioner with respect to issuance of

such number plates. Provided, however, in lieu of the annual fee specified herein, the commissioner may establish specific categories of plates for which an annual fee of not less than eighteen dollars and seventy-five cents nor more than thirty-one dollars and twenty-five cents may be charged subject to the approval of the director of the division of the budget. Notwithstanding any inconsistent provision of this section, the difference collected between the special plates fee or service charge set forth in this subdivision in effect on and after September first, two thousand nine and the special plates fee or service charge set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

1-a. The commissioner may issue special number plates to applicants who are members of veterans organizations in the same manner as other number plates are issued pursuant to this article. Such special number plates shall be issued only upon (a) payment of a one-time service charge of ten dollars in addition to the regular registration fee prescribed by section four hundred one of this article, and (b) submission of proof, satisfactory to the commissioner, that the applicant is presently a member of the veterans organization for which such plate is requested. Such membership shall be verified annually by the applicant. Application for such plates shall be made in accordance with regulations promulgated by the commissioner with respect to the issuance of such plates. Provided, however, that nothing contained herein shall be deemed to supersede the provisions of section four hundred four-d, four hundred four-e, four hundred four-h, four hundred four-i, four hundred four-j, four hundred four-k, four hundred four-p, four hundred four-aa, or four hundred four-dd of this article.

2. For purposes of this section, a special number plate shall be a plate which contains not more than eight letters, numerals or any combination thereof and which is reserved by the commissioner for issuance in accordance with the provisions of this section, or a plate reserved for issuance in a series for vehicles owned by public officers, physicians, visiting nurses, accredited representatives of the press or other groups. In issuing special number plates the commissioner shall

give those applicants who held a special number plate at the time of the enactment of this section the right to retain such special number plate upon the payment of the annual service charge of thirty-one dollars and twenty-five cents. Provided, however, that such right of retention shall apply only to the first renewal of the registration of such special number plate following the enactment of this section. Notwithstanding any inconsistent provision of this section, the difference collected between the annual service charge set forth in this subdivision in effect on and after September first, two thousand nine and the annual service charge set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

3. This section shall not apply to any plates in a series reserved in the public interest for purposes of facilitating identification of state and municipal vehicles and those owned by members of international governmental organizations or any other vehicles which are exempt from the payment of registration fees, nor to plates or series of plates assigned by the commissioner for issuance by county clerks.

4. Nothing contained in this section shall be construed to require the commissioner to issue a special number plate or plates.

§ 404-a. Registration of motor vehicles of severely disabled persons. 1. Legislative intent. It is the sense of the legislature to facilitate the usual and special uses of the highways and other motor vehicle facilities accorded to severely disabled residents of this state. The commissioner is hereby empowered to issue to such persons, upon their application, special motor vehicle registrations, one set of vehicle identification plates for motor vehicles owned by such persons to be used for the transportation of such severely disabled person and one set of vehicle identification plates for each motor vehicle owned by such persons and used by a severely disabled member of the owner's family.

2. Registration of vehicles owned by severely disabled persons. The commissioner shall assign to such motor vehicles, including any van or

pick-up truck used for transporting persons with disabilities which is not used for commercial purposes, owned by such persons, a distinctive number and issue and deliver in such manner as the commissioner may select to the owner a certification of registration, in such form as the commissioner shall prescribe and two number plates, called disabled person plates. Said disabled person plates shall conform to the requirements of section four hundred one of this chapter, but shall bear distinctive marks to distinguish them from number plates to be issued to other persons, qualifying under this chapter. The commissioner, in his discretion, may issue, for any registration year, only one plate as a set for a motor vehicle, in which event a set of disabled person plates for a motor vehicle shall consist of one plate. Where a severely disabled person owns more than one vehicle and such vehicle or vehicles is or are used by severely disabled members of the owner's family who reside with the owner, the commissioner shall issue one set of plates for each additional vehicle used by such severely disabled person, provided that such user qualifies as a severely disabled person in the manner required by this section.

3. Registration of vehicles owned by severely disabled veterans. The commissioner shall assign to such motor vehicles, including any vans or pick-up trucks used for transporting handicapped veterans which are not used for commercial purposes and which are owned by such veterans or a not-for-profit corporation serving such veterans, a distinctive number and issue and deliver in such manner as the commissioner may prescribe to the owner a certification of registration, in such form as the commissioner shall prescribe and two number plates, called disabled veteran plates. Said severely disabled veteran plates shall conform to the requirements of section four hundred one of this article, but shall bear distinctive marks to distinguish them from number plates to be issued to other persons, qualifying under this article. The commissioner in his discretion, may issue, for any registration year, only one plate as a set for a motor vehicle, in which event a set of severely disabled veteran plates for a motor vehicle shall consist of one plate. Where a severely disabled veteran owns more than one vehicle and such vehicle or vehicles is or are used by severely disabled members of the owner's family who reside with the owner, the commissioner shall issue one set

of plates for each additional vehicle used by such severely disabled veteran, provided that such user qualifies as a severely disabled veteran in the manner required by this section. For purposes of this subdivision, the term "severely disabled veteran" shall mean a veteran as defined in section eighty-five of the civil service law, and whose disability qualifies him as a severely disabled person within the meaning of such term as defined in subdivision four of this section.

4. Issue of plates. The commissioner shall issue sets of plates to such person in accordance with subdivision two of this section with proof of such disability of such person or such members of his or her family certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, or podiatrist pursuant to subdivision four-a of this section or optometrist pursuant to subdivision four-b of this section, to the satisfaction of the commissioner who is empowered to carry out the effects of this section by formulating rules and regulations.

For the purposes of this section, a "severely disabled person" shall mean any person having any one or more of the following impairments, disabilities or conditions which are permanent in nature:

(a) Has limited or no use of one or both lower limbs;

(b) Has a neuro-muscular dysfunction which severely limits mobility;

(c) Has a physical or mental impairment or condition which is other than those specified above, but is of such nature as to impose unusual hardship in utilization of public transportation facilities and such condition is certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, duly licensed to practice in this state, or, pursuant to subdivision four-a of this section, a podiatrist duly licensed to practice podiatry in this state or, pursuant to subdivision four-b of this section, an optometrist duly licensed to practice optometry in this state, as constituting an equal degree of disability (specifying the particular condition) so as to prevent such person from getting around without great difficulty in accordance with subdivision two of this

section; or

(d) A blind person.

4-a. Certification of disability by a podiatrist. A podiatrist duly licensed to practice podiatry in this state may certify only those conditions which he or she treats in the course of the practice of podiatry, as defined by section seventy hundred one of the education law.

4-b. Certification of disability by an optometrist. An optometrist duly licensed to practice optometry in this state may certify only those conditions which he or she treats in the course of the practice of optometry, as defined in section seventy-one hundred one of the education law.

5. Application for registration. (a) The application for registration under this section shall be filed with the commissioner of motor vehicles in such form and detail as the commissioner shall prescribe, setting forth such information as the commissioner may reasonably prescribe beyond such information required under section four hundred one of this chapter.

(b) The commissioner may require the applicant for registration to furnish such proof of his or her disability or such proof of disability of such members of his or her family from a physician, physician assistant or nurse practitioner, to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, or podiatrist pursuant to subdivision four-a of this section or optometrist pursuant to subdivision four-b of this section, as the commissioner deems necessary either for initial registration or renewal thereof; provided, however, that a handicapped or disabled permit issued by a municipality to such applicant pursuant to section twelve hundred three-a of this chapter shall be deemed sufficient proof of disability for purposes of this paragraph.

(c) Application under this section shall only apply to a vehicle subject to registration pursuant to subdivision six of section four hundred one of this chapter and to a van or pick-up truck as provided in subdivision two of this section.

6. Fee requirements. As provided in section four hundred one of this chapter, the registration and disabled person plates shall be accompanied only by the required fee otherwise required to be paid for vehicle registration.

7. Refueling notice. Upon the issuance or renewal of a registration pursuant to this section, the commissioner shall notify the registrant of the availability of full service motor vehicle refueling at self service prices as provided for in section three hundred ninety-six-bb of the general business law.

§ 404-aa. Distinctive plates for members of the Catholic War Veterans of America. 1. Any member of the Catholic War Veterans of America residing in this state shall, upon request, be issued a license plate bearing the words "Catholic War Veterans of America". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized in this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Catholic War Veterans of America.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

§ 404-b. Distinctive plates for volunteer firefighters. 1. Any member of any volunteer fire department or company in this state or the spouse of any such member shall, upon request, be issued a license plate bearing a Maltese cross and the letters "V.F.". If a distinctive plate is issued to any such member pursuant to this section, such a distinctive plate shall not be issued to the spouse of such member.

Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant.

2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is presently an active member of a volunteer fire department or company.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this chapter and an initial one time service charge of fifteen dollars.

§ 404-bb. Distinctive Cystic Fibrosis Foundation license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of cystic fibrosis awareness and research bearing the phrase "Cystic Fibrosis Foundation". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "cystic fibrosis research and education fund" established pursuant to section ninety-seven-qqqq of the state finance law and shall be used for research and education programs undertaken pursuant to section ninety-seven-qqqq of the state finance law.

§ 404-c. Distinctive plates for former prisoners of war. 1. Any former

prisoner of war residing in this state or the spouse of any such former prisoner of war shall, upon request, be issued a license plate bearing the words "former prisoner of war". If a distinctive plate is issued to a former prisoner of war pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the former prisoner of war residing in this state or the spouse of such former prisoner of war. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a former prisoner of war.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this chapter provided, however, that no additional service charge shall be charged for such plate.

4. The unremarried widow or widower of a former prisoner of war married to such former prisoner at the time of his or her imprisonment shall be included in the term "spouse" for the purposes of this section. A distinctive plate issued pursuant to this subdivision shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this chapter, provided, however, that no additional service charge shall be charged for such plate.

5. Notwithstanding subdivision three of this section and the fees prescribed or permitted by section four hundred one of this article, there shall be no charge for the issuance of a number plate pursuant to this section to a former prisoner of war, nor shall there be imposed an additional service charge for the issuance of such a plate to such a person. Furthermore, upon the issuance of a distinctive plate pursuant to this section, such a former prisoner of war shall be exempt from the payment of any fees relating to the registration or renewal thereof as

prescribed by section four hundred one of this article.

§ 404-cc. Distinctive "Cure Childhood Cancer" plates. 1. Any person residing in this state shall upon request be issued a distinctive plate in support of childhood cancer research bearing the words "Cure Childhood Cancer". Application for such plates shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate.

3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "cure childhood cancer research fund" established pursuant to section ninety-nine-z of the state finance law and shall be used for research programs undertaken pursuant to section ninety-nine-z of the state finance law.

§ 404-d. Distinctive plates for members of the organized militia and reserve. 1. Any member of the organized militia of the state of New York and any member of a reserve unit from this state of any branch of the armed forces of the United States or the spouse of any such member shall, upon request, be issued a license plate bearing a militiaman and the appropriate organization -- army national guard, air national guard, state guard or naval militia, army reserve, marine corps reserve, air force reserve, navy reserve or coast guard reserve. If a distinctive plate is issued to a member of the organized militia pursuant to this section, such a distinctive plate shall not be issued to the spouse of such member of the organized militia. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the

applicant.

2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is presently an active member of the organized militia or reserve.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

*** § 404-dd. Distinctive plates for members of AMVETS.** 1. Any member of AMVETS residing in this state shall, upon request, be issued a license plate bearing the word "AMVETS". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of AMVETS.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

4. For the purposes of this section, "AMVETS" shall mean the veterans service organization chartered by congress as a membership corporation created pursuant to chapter 227 of title 36 of the United States code.

* NB There are 2 § 404-dd's

*** § 404-dd. Mental illness anti-stigma license plates.** 1. Any person

residing in this state shall, upon request, be issued a distinctive license plate of a design developed and approved by the commissioner in consultation with the commissioner of the office of mental health in support of ending the stigma related to mental illness research bearing the phrase "Healthy mind, healthy New York". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "mental illness anti-stigma fund" established pursuant to section ninety-five-h of the state finance law and shall be used for the purpose of providing grants to organizations dedicated to eliminating the stigma attached to mental illness and persons with mental health needs pursuant to section 7.47 of the mental hygiene law.

* NB There are 2 § 404-dd's

§ 404-e. Distinctive plates for purple heart recipients. 1. Any purple heart recipient residing in this state or the spouse of any such recipient shall, upon request, be issued a license plate bearing the words "combat wounded" and inscribed the purple heart medal imprint. If a distinctive plate is issued to a purple heart recipient pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the purple heart recipient residing in this state or the spouse of such purple heart recipient. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of

the applicant is a purple heart recipient.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that no service charge shall be charged for such plate.

*** § 404-ee. Distinctive "West Indian American Day Carnival" license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "West Indian American Day Carnival" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate.

* NB There are 4 § 404-ee's

*** § 404-ee. Distinctive Down's syndrome awareness license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of Down's syndrome awareness and research bearing the phrase "Down's Syndrome Awareness" and any other phrases and design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "Down's syndrome research fund" established pursuant to section ninety-nine-ee of the state finance law and shall be used for research undertaken pursuant to section ninety-nine-ee of the state finance law.

* NB There are 4 § 404-ee's

*** § 404-ee. Distinctive "September eleventh, two thousand one remembrance" license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "September eleventh, two thousand one remembrance" license plate. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "World Trade Center memorial scholarship fund" established pursuant to section ninety-six of the state finance law and shall be used for scholarships awarded pursuant to sections six hundred eight and six hundred sixty-eight-d of the education law.

* NB There are 4 § 404-ee's

*** § 404-ee. Distinctive "Jamaican bobsled team" number plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "Jamaican bobsled team" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate.

* NB There are 4 § 404-ee's

§ 404-f. Distinctive plates for members of volunteer ambulance services. 1. Any member of any volunteer ambulance service in this state or the spouse of any such member shall, upon request, be issued a license plate bearing the letters "V.A.S." If a distinctive plate is issued to a volunteer ambulance service member pursuant to this section, such distinctive plate shall not be issued to the spouse of such member. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant.

2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is presently an active member of a volunteer ambulance service.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this chapter and an additional annual service charge of fifteen dollars.

§ 404-g. Distinctive plates bearing the words "Birthplace of Baseball". 1. Any person residing in this state shall, upon request, be issued a license plate bearing the words "Birthplace of Baseball" in honor of the Baseball Hall of Fame in Cooperstown, New York and the one hundred fiftieth anniversary of the game of baseball. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

§ 404-h. Distinctive plates for members of the Jewish War Veterans of America. 1. Any member of the Jewish War Veterans of America residing in this state shall, upon request, be issued a license plate bearing the words "Jewish War Veterans of America". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Jewish War Veterans of America.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

§ 404-i. Distinctive plates for gold star mothers. 1. Any gold star mother or the spouse of a gold star mother residing in this state shall, upon request, be issued a license plate bearing the words "gold star mother". If a distinctive plate is issued to a gold star mother pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the gold star mother recipient residing in this state or the spouse of such gold star mother. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof,

satisfactory to the commissioner, that the applicant or the spouse of the applicant is a gold star mother.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that no service charge shall be charged for such plate.

§ 404-j. Registration and issuance of special number plates for veterans who survived the Pearl Harbor attack. 1. Registration of vehicles owned by veterans who survived the Pearl Harbor attack. The commissioner shall assign to motor vehicles, owned by persons who while on military duty serving in the armed forces of the United States survived the Pearl Harbor attack by Japan on December seventh, nineteen hundred forty-one or the spouse of such a person, a distinctive number and issue and deliver in such manner as the commissioner may select to the owner a certification of registration, in such form as the commissioner shall prescribe and two number plates, called Pearl Harbor attack veterans plates. Said plates shall conform to the requirements of section four hundred one of this chapter, but shall bear the distinctive words PEARL HARBOR SURVIVOR to distinguish them from number plates to be issued to other persons, qualifying under this chapter. The commissioner, in his discretion, may issue, for any registration year, only one plate as a set for a motor vehicle, in which event a set of plates for a motor vehicle shall consist of one plate. If a distinctive plate set is issued to a Pearl Harbor attack veteran pursuant to this section, such a distinctive plate set shall not be issued to the spouse of such veteran.

2. Issue of plates. The commissioner shall issue sets of plates to such person in accordance with subdivision one of this section with proof by such person or the spouse of such person that such person survived the Pearl Harbor attack by Japan on December seventh, nineteen hundred forty-one in a manner satisfactory to the commissioner who is empowered to carry out the effects of this section by formulating rules

and regulations. Such plates shall not be considered as "vanity plates". The plates authorized to be issued hereunder are special and are to be issued in recognition of valiant service rendered by the veteran to the United States.

3. Application for registration. (a) The application for registration under this section shall be filed with the commissioner of motor vehicles in such form and detail as the commissioner shall prescribe, setting forth such information as the commissioner may reasonably prescribe beyond such information required under section four hundred one of this chapter.

(b) Application under this section shall only apply to a vehicle subject to registration pursuant to subdivision six of section four hundred one of this chapter and as provided in subdivision one of this section.

4. Fee. A special plate and registration issued pursuant to this section shall be issued upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

§ 404-k. Distinctive plates for Marine Corps League members. 1. Any member of the Marine Corps League residing in this state shall, upon request, be issued a license plate bearing the United States Marine Corps emblem and the words "Marine Corps League". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Marine Corps League.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article

provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

§ 404-l. Distinctive regional design plates. 1. On or after October first, nineteen hundred ninety-two, any person residing in this state shall, upon request, be issued a license plate with a distinctive regional design approved by the commissioner. The commissioner may also issue such distinctive plates with special numerals and/or letters requested by the applicant. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of thirty-one dollars and twenty-five cents shall be charged for such plates, and provided that a further additional annual service charge of thirty-one dollars and twenty-five cents shall be charged for any such plate containing specially requested numerals and/or letters. Provided, however, in lieu of the annual fee specified herein, the commissioner may establish specific categories of plates for which an annual fee of not less than eighteen dollars and seventy-five cents nor more than thirty-one dollars and twenty-five cents may be charged subject to the approval of the director of the division of the budget. Notwithstanding any inconsistent provision of this section, the difference collected between the annual service charge or fee set forth in this subdivision in effect on and after September first, two thousand nine and the annual service charge or fee set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

§ 404-m. Distinctive license plates commemorating the World University Games. 1. Any person shall upon request be issued a license plate commemorating the World University Games bearing the name and logo of

the World University Games. The arrangement of the name and logo on such license plate shall be in the sole discretion of the commissioner.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article and an additional annual service charge of forty dollars.

3. Of the forty dollar annual service charge collected by the commissioner pursuant to subdivision two of this section, twenty-five dollars shall be transmitted to the comptroller for deposit into the World University Games Fund established by section ninety-seven-nn of the state finance law to be made available to the Greater Buffalo Athletic Corporation.

§ 404-n. Issuance of distinctive conservation plates. 1. On or after April first, nineteen hundred ninety-four, any person residing in this state, upon filing a complete application and paying a fee as provided in subdivision two of this section, shall be issued his or her choice of a distinctive conservation license plate from those approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive conservation plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All moneys received as annual service charges under this section shall be deposited to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law; and shall be used for open space land conservation projects undertaken pursuant to title three of article fifty-four of the environmental conservation law.

3. The proceeds under this section shall be deposited in the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

§ 404-o. Distinctive "Olympic Spirit" license plates. Any person shall upon request be issued distinctive "Olympic Spirit" license plates in support of the Lake Placid olympic training center bearing the "Olympic Spirit" logo designed by the United States olympic committee and approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive "Olympic Spirit" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty dollars shall be charged for each plate. Such service charge shall be transmitted by the commissioner to the comptroller for deposit into the United States Olympic Committee/Lake Placid Olympic Training Center Fund established by section eighty-four of the state finance law. Up to twenty percent of the moneys in the fund would be available to the department of motor vehicles to defray the costs of designing, producing, the availability of "Olympic Spirit" license plates.

§ 404-oo. Deposit of service charges for distinctive license plates. Notwithstanding any inconsistent provision of this chapter or of any other law, the first six thousand dollars of service charges collected for issuance of distinctive license plates established pursuant to this article on or after the effective date of this section and, unless otherwise specified, any amounts in excess of such six thousand dollars, shall be deposited to the credit of the department of motor vehicles distinctive plate development fund established pursuant to section ninety-five-g of the state finance law and shall be used for the production, design, advertising and distribution of such distinctive

license plates established pursuant to this article on or after the effective date of this section.

*** § 404-p. Distinctive "Animal Population Control Fund" license plates.** 1. On or after October first, nineteen hundred ninety-six, any person residing in this state shall, upon request, be issued a distinctive "Animal Population Control Fund" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive Animal Population Control Fund plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All monies received as annual service charges under this section shall be deposited to the credit of the animal population control fund established pursuant to section ninety-seven-xx of the state finance law, and shall be used for animal population control programs undertaken pursuant to section one hundred seventeen-a of the agriculture and markets law.

* NB There are 2 § 404-p's

*** § 404-p. Distinctive plates for congressional medal of honor recipients.** 1. Any congressional medal of honor recipient residing in this state or the spouse of any such recipient shall, upon request, be issued a license plate bearing the words "congressional medal of honor". If a distinctive plate is issued to a congressional medal of honor recipient pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the congressional medal of honor recipient residing in this state or the spouse of such congressional medal of honor recipient. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a congressional medal of honor recipient.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates, provided, however, that no registration fee or service charge shall be charged for such plate.

* NB There are 2 § 404-p's

*** § 404-q. Distinctive "drive for the cure" license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "drive for the cure" license plate in support of breast, prostate and testicular cancer research bearing the phrase "drive for the cure". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive "drive for the cure" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Twelve dollars and fifty cents from each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the breast cancer research and education fund established pursuant to section ninety-seven-yy of the state finance law and shall be used for research and education programs undertaken pursuant to section twenty-four hundred ten of the public health law. Twelve dollars and fifty cents from each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the New York State prostate and testicular cancer research and education fund established pursuant to section ninety-five-e of the state finance law and shall be used for research and education programs undertaken pursuant to section ninety-five-e of the state finance law. Provided, however that one year after the effective date of this section

funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

* NB There are 2 § 404-q's

*** § 404-q. Distinctive plates for the council on the arts.** 1. Any person residing in this state shall, upon request, be issued a distinctive "Council on the Arts" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive council on the arts plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fees prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All monies received as annual service charges under this section shall be deposited to the credit of the arts capital revolving fund established pursuant to section ninety-seven-z of the state finance law; provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available shall be allocated from such fund to the department to offset costs associated with the production of such license plate.

* NB There are 2 § 404-q's

*** § 404-r. Distinctive "foreign organization" license plates.** 1. The commissioner may issue special number plates bearing the words "foreign organization" to applicants of a foreign organization recognized by the United States. Applications for said license plate shall be filed with the commissioner in said form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized herein shall be issued upon proof,

satisfactory to the commissioner, that the applicant is an entity of a foreign government recognized by the United States before January first, nineteen hundred seventy-nine without diplomatic relations with the United States. Such plates may be issued for passenger vehicles and light commercial motor vehicles with a manufacturers rated carrying capacity of one ton or less.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of thirty dollars shall be charged for such plate.

4. Nothing contained herein shall require the issuance of a special number plate under this section unless the commissioner is satisfied that the aggregate amount of annual service charges collected pursuant to subdivision three of this section will be sufficient to recover the costs of the design and manufacture of such special number plates.

* NB There are 2 § 404-r's

*** § 404-r. Distinctive plates for New York state licensed dentists who are members of the New York State Dental Association.** 1. Any New York state licensed dentist residing in this state who is a member of the New York State Dental Association as established pursuant to chapter six hundred eighty-three of the laws of nineteen hundred ninety-seven shall, upon request, be issued a license plate formatted at the discretion of the department bearing the letters "DDS" or "DMD" and the official logo of the New York State Dental Association. Such license plate need not contain the statue of liberty logo. If a distinctive plate is issued to a New York state licensed dentist pursuant to this section, such distinctive plate shall not be issued to the spouse of such member. Application for said license shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant.

2. The distinctive plate authorized in subdivision one of this section

shall be issued upon proof, satisfactory to the commissioner, that the applicant is presently a dentist licensed to practice in the state of New York and a member of the New York State Dental Association.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article and an additional annual service charge of thirty dollars. Twenty dollars from each thirty dollars received as annual service charges under this section shall be deposited to a fund for the credit of the New York State Dental Foundation, said fund established as a revolving fund pursuant to section ninety-seven-www of the state finance law; provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available shall be allocated from such fund to the department to offset costs associated with the production of such license plates.

* NB There are 2 § 404-r's

*** § 404-s. Issuance of distinctive "I Love New York" plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "I Love New York" license plate. The design of such distinctive plate shall be developed by the commissioner in cooperation with the commissioner of the department of economic development and shall utilize the phrase "I Love New York", and/or a representative logo, in a manner consistent with usage thereof by the department of economic development and tourist promotion agencies recognized pursuant to section one hundred sixty-three of the economic development law.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Such service charge shall be deposited to the credit of the department of economic development and shall be made available for services and expenses for

tourism marketing as provided for in subdivision sixteen of section one hundred of the economic development law provided, however, that the department of economic development shall reimburse the department an amount not to exceed six thousand dollars for costs associated with the production of such plate.

3. A distinctive plate issued pursuant to this section to a person who purchases a lifetime license pursuant to section 11-0702 of the environmental conservation law or a lifetime vehicle access pass, also known as a lifetime empire passport, pursuant to article thirteen of the parks, recreation and historic preservation law between January first, two thousand fourteen and December thirty-first, two thousand fourteen shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that commencing upon the third registration period after the initial issuance of such plate, an additional annual service charge of fifteen dollars shall be charged for such plate. Such service charge shall be deposited and made available in the same manner as set forth in subdivision two of this section. Additionally, such person shall be exempt from the payment of (a) the twenty-five dollar fee required to be paid for the issuance of a set of reflectorized number plates pursuant to paragraph a of subdivision three of section four hundred one of this article, and (b) the fee of three dollars and twenty-five cents for the issuance of a new set of number plates pursuant to paragraph b of subdivision three of section four hundred one of this article.

4. A person who, prior to January first, two thousand fourteen, possesses a lifetime license pursuant to section 11-0702 of the environmental conservation law or a lifetime vehicle access pass, also known as a lifetime empire passport, or a three or five year vehicle access pass pursuant to article thirteen of the parks, recreation and historic preservation law shall, on request between April first, two thousand fourteen and March thirty-first, two thousand fifteen, be issued a distinctive plate pursuant to this section in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided,

however, that commencing upon the third registration period after the initial issuance of such plate, an additional annual service charge of fifteen dollars shall be charged for such plate. Such service charge shall be deposited and made available in the same manner as set forth in subdivision two of this section. Additionally, such person shall be exempt from the payment of the fee of three dollars and twenty-five cents for the issuance of a new set of number plates pursuant to paragraph b of subdivision three of section four hundred one of this article.

5. Any New York resident who possesses a hunting, fishing or trapping license issued pursuant to title seven of article eleven of the environmental conservation law or an annual vehicle access pass, also known as an empire passport, pursuant to article thirteen of the parks, recreation and historic preservation law shall, upon request, be issued the distinctive plate available to a person who purchases a lifetime license or passport, which shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Such service charge shall be deposited and made available in the same manner as set forth in subdivision two of this section.

* NB There are 4 § 404-s's

*** § 404-s. Issuance of distinctive plates for agriculture.** 1. On and after April first, two thousand two, any person residing in this state, upon filing a complete application and paying a fee as provided in subdivision two of this section, shall be issued his or her choice of a distinctive license plate for agriculture from those approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate for agriculture issued pursuant to this section shall be issued in the same manner as other number plates upon the

payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All moneys received as annual service charges under this section shall be deposited to the credit of the "agriculture in the classroom fund" established pursuant to section ninety-seven-xxx of the state finance law; and shall be used for agriculture in the classroom programs.

* NB There are 4 § 404-s's

*** § 404-s. Distinctive "drive out diabetes" license plates.** 1. Any person residing in this state shall upon request be issued a distinctive "drive out diabetes" license plate in support of diabetes research bearing the phrase "drive out diabetes". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. All monies received as the annual service charge under this section shall be deposited to the credit of the New York state "drive out diabetes research and education fund" established pursuant to section ninety-five-b of the state finance law and shall be used for research and education programs undertaken pursuant to article twenty-seven-H of the public health law as redesignated by chapter five hundred eighty-four of the laws of nineteen hundred eighty-eight. Provided, however that one year after the effective date of this section funds in the amount of seven thousand five hundred dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

* NB There are 4 § 404-s's

*** § 404-s. Distinctive plates for the Saratoga national cemetery honor**

guard association. 1. Any member of the Saratoga national cemetery honor guard association residing in this state shall, upon request, be issued a license plate bearing the logo of such association as illustrated by such association's shoulder patch. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant.

2. A distinctive plate authorized by subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant presently is an active member of the Saratoga national cemetery honor guard association.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Provided, however, that one year after the effective date of this section funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

* NB There are 4 § 404-s's

*** § 404-t. Distinctive marine and coastal district of New York license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive marine and coastal district of New York license plate in support of conservation, education, and research projects relating to such district, as described in section 13-0103 of the environmental conservation law. The design of such distinctive plate shall be developed by the commissioner in consultation with the commissioner of the department of environmental conservation and the commissioner of the department of economic development. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All monies received for the annual service charge pursuant to this section shall be deposited to the credit of the marine and coastal district of New York conservation, education, and research fund established pursuant to section ninety-five-c of the state finance law and shall be used for conservation, education, and research projects approved by the marine and coastal district of New York conservation, education, and research board established pursuant to section 13-0503 of the environmental conservation law. Provided, however, that one year after the effective date of this section, funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates.

* NB There are 3 § 404-t's

*** § 404-t. Distinctive conserve habitat license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "Conserve Habitat" license plate of a design approved by the commissioner, after consultation with the commissioner of environmental conservation. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive conserve habitat plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fees prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Such service charge under this section shall be deposited to the credit of the conservation fund established pursuant to section eighty-three of the state finance law; provided, however, that one year after the effective date of this section, funds up to a maximum of six

thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plate.

* NB There are 3 § 404-t's

*** § 404-t. Distinctive "peace at home" license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "peace at home" license plate of a design approved by the commissioner in support of domestic violence awareness and prevention. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive "peace at home" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the domestic violence awareness fund established pursuant to section ninety-seven-yyy of the state finance law and shall be used for educational and prevention programs undertaken pursuant to article twenty-one of the executive law. Provided, however that one year after the effective date of this section funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

* NB There are 3 § 404-t's

*** § 404-u. Distinctive "keep kids drug free" license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "keep kids drug free" license plate in support of youth drug prevention and treatment programs. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive "keep kids drug free" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. The additional service charge of twenty-five dollars shall be deposited to the credit of the office of alcoholism and substance abuse services and shall be used to support programs which seek to reduce alcoholism and substance abuse among the youth population in New York state through prevention and/or treatment. Such deposits shall not be used to replace, offset, or supplant any existing funding streams which aid the office, but shall be in addition thereto. Provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

* NB There are 4 §404-u's

*** § 404-u. Distinctive "national multiple sclerosis society" license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of multiple sclerosis research bearing the phrase "national multiple sclerosis society".

2. An application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

4. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the New York state "multiple sclerosis research fund" established pursuant to section

ninety-five-d of the state finance law and shall be used for research programs undertaken pursuant to section ninety-five-d of the state finance law. Provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates.

* NB There are 4 § 404-u's

*** § 404-u. Distinctive gift of life license plates.** 1. Any person residing in this state shall upon request be issued a distinctive license plate bearing the words "Life Pass It On". Application for said license plates shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. Any distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Twenty dollars of each such twenty-five dollar annual service charge shall be deposited to the credit of the "life pass it on trust fund" established pursuant to section ninety-five-d of the state finance law and shall be used for research and education programs approved by the commissioner of health. Provided, however that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

* NB There are 4 § 404-u's

*** § 404-u. Distinctive "Erie canal" license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "Erie canal" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive "Erie canal" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article and an additional annual service charge of twenty-five dollars. Twenty dollars from each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the Erie canal museum fund, established as a revolving fund pursuant to section ninety-seven-cccc of the state finance law. Provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates.

* NB There are 4 § 404-u's

*** § 404-v. Distinctive plates for water rescue team members.** 1. Any member of a water rescue team shall, upon request, be issued a license plate bearing the emblem and words "New York State" on the top of the license plate and "Water Rescue" on the bottom of the license plate. A dive flag shall be included on the face of the distinctive plate. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe and shall be verified annually by the applicant.

2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is presently an active member of a water rescue team and shall be surrendered upon the separation from a water rescue team.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Such annual service charge shall be deposited to the credit of the New York state water

rescue team awareness and research fund established pursuant to section ninety-five-f of the state finance law and shall be used for water team rescue awareness and research projects approved by the office of parks, recreation and historic preservation. Provided, however, that one year after the effective date of this section funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

* NB There are 7 § 404-v's

*** § 404-v. Distinctive plates for the United States Naval Armed Guard.** 1. Any member of the United States Naval Armed Guard residing in this state shall, upon request, be issued a license plate bearing the words "United States Naval Armed Guard", or such other phrase as the commissioner shall designate showing the registrant served in the United States Naval Armed Guard. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized pursuant to this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a veteran who served in the United States Naval Armed Guard and who (1) was honorably discharged from such service, or (2) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate. Provided, however, that one year after the effective date of this section funds in the amount of five thousand dollars, or so much thereof as may be available, shall be

allocated from such funds to the department to offset costs associated with the production of such license plates.

* NB There are 7 § 404-v's

*** § 404-v. Distinctive plates for the arts and cultural institutions and museums.** 1. Any person residing in this state shall, upon request, be issued a distinctive New York state cultural institutions and museums license plate of a design approved by the commissioner. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive New York state cultural institutions and museums plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fees prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Fifteen dollars from each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the arts capital revolving fund established pursuant to section ninety-seven-z of the state finance law; provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available shall be allocated from such fund to the department to offset costs associated with the production of such license plate.

* NB There are 7 § 404-v's

*** § 404-v. Distinctive plates for members of the Eighth Air Force Historical Society.** 1. Any member of the Eighth Air Force Historical Society residing in this state shall, upon request, be issued a license plate bearing the words "Eighth Air Force". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized in this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a

member of the Eighth Air Force Historical Society.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Such annual service charge shall be deposited to the credit of the Eighth Air Force Historical Society fund established pursuant to section ninety-five-f of the state finance law and shall be used for veterans' counseling services provided by local veterans' service agencies pursuant to section fourteen of the veterans' services law under the direction of the department of veterans' services. Provided, however, that one year after the effective date of this section funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

* NB There are 7 § 404-v's

*** § 404-v. Issuance of distinctive "Discover Queens" license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "Discover Queens" license plate. The design of such distinctive plate shall be developed by the commissioner in cooperation with the Queens Tourism Council, a not-for-profit corporation organized and operated under the laws of this state, and recognized pursuant to section one hundred sixty-three of the economic development law, and shall utilize the trademarked "Discover Queens" logo, as well as any other language or information appropriate to the promotion of tourism in the Borough of Queens.

2. A distinctive "Discover Queens" plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fees prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Each twenty-five dollars received as annual service charges under

this section shall be deposited to the credit of the New York state "Discover Queens fund" established pursuant to section ninety-seven-aa of the state finance law and shall be used for tourism promotion projects pursuant to such section ninety-seven-aa within the county of Queens.

3. Provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates.

* NB There are 7 § 404-v's

*** § 404-v. Distinctive autism awareness license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of autism awareness and research bearing the phrase "Autism Society of America" and any other phrases and design approved by the commissioner in consultation with the Autism Society of America.

2. An application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

4. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the New York state autism awareness and research fund established pursuant to section ninety-five-e of the state finance law and shall be used for research programs undertaken pursuant to section ninety-five-e of the state finance law. Provided, however, that one year after the effective date

of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates except that no such funds shall be so allocated if the department has received funds for such purpose from the Autism Society of America.

* NB There are 7 § 404-v's

*** § 404-v. Distinctive "Love your library" plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive "Love your library" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All moneys received as annual service charges under this section shall be deposited to the credit of the love your library fund established pursuant to section ninety-nine-l of the state finance law; and shall be used for library related programs and resources authorized by the commissioner of education. Provided, however, that one year after the effective date of this section, funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates.

* NB There are 7 § 404-v's

*** § 404-w. Distinctive plates for war on terror veterans.** 1. Any war on terror veteran residing in this state shall, upon request, be issued a license plate bearing the words "War on Terror veteran". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. For purposes of this

section, a "war on terror" veteran shall mean:

(a) a person who served in the armed forces of the United States in the hostilities that occurred in the Persian Gulf from the eleventh day of September, two thousand one, to the end of such hostilities, who (i) was discharged therefrom under other than dishonorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service; or

(b) a person who served in the armed forces of the United States, in the hostilities that occurred in Afghanistan from the eleventh day of September, two thousand one, to the end of such hostilities, who (i) was discharged therefrom under other than dishonorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

2. The distinctive plate authorized by this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a war on terror veteran.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred of this article, provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

* NB There are 2 § 404-w's

*** § 404-w. Distinctive plates for Persian Gulf veterans.** 1. Any Persian Gulf veteran or the spouse of any such veteran shall, upon request, be issued a license plate bearing the words "Persian Gulf

Veteran". If a distinctive plate is issued to a veteran pursuant to this section, such a distinctive plate shall not be issued to the spouse of such veteran. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a Persian Gulf veteran.

3. For the purposes of this section, "Persian Gulf veteran" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in the Persian Gulf from the second day of August, nineteen hundred ninety to the end of such hostilities, and was (a) honorably discharged from the military, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

4. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one time service charge of ten dollars shall be charged for such plate.

5. Nothing contained herein shall require the issuance of a special number plate under this section unless the commissioner is satisfied that the aggregate amount of annual service charges collected pursuant to subdivision four of this section will be sufficient to recover the costs of the design and manufacture of such special plates.

* NB There are 2 § 404-w's

§ 404-x. Distinctive "Ducks Unlimited" license plates. 1. Any person

residing in this state shall, upon request, be issued a distinctive license plate bearing the name and logo of "Ducks Unlimited". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate.

*** § 404-y. Distinctive plates for veterans of the Iraq War and veterans of the Afghanistan War.** 1. Any veteran of the Iraq War or the Afghanistan War residing in this state or the spouse of any such veteran shall, upon request, be issued a license plate bearing the words "Veteran of the Iraq War" or "Veteran of the Afghanistan War". If a distinctive plate is issued to a veteran pursuant to this section, such a distinctive plate shall not be issued to the spouse of such veteran. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plates authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a veteran of the Iraq War or the Afghanistan War.

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

(a) "Veteran of the Iraq War" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in Iraq from the sixteenth day of October, two thousand two to the end of such hostilities who (i) was discharged therefrom under other than dishonorable conditions or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran,

as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service; and

(b) "Veteran of the Afghanistan War" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in Afghanistan from the seventh day of October, two thousand one to the end of such hostilities who (i) was discharged therefrom under other than dishonorable conditions or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

4. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one time service charge of ten dollars shall be charged for such plate.

* NB There are 6 § 404-y's

*** § 404-y. Distinctive "Appalachian Trail" license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive license plate bearing the words "Appalachian Trail". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate.

* NB There are 6 § 404-y's

*** § 404-y. Distinctive plates for members of the Kiwanis International.** 1. Any member of Kiwanis International residing in this state shall, upon request, be issued a license plate bearing the words "Kiwanis International". Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized pursuant to this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of Kiwanis International.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate.

* NB There are 6 § 404-y's

*** § 404-y. Distinctive plates for conspicuous service cross recipients.** 1. Any conspicuous service cross recipient residing in this state or the spouse of any such recipient shall, upon request, be issued a license plate bearing the words "conspicuous service cross recipient". If a distinctive plate is issued to a conspicuous service cross recipient pursuant to this section, such a distinctive plate shall not be issued to the spouse of such conspicuous service cross recipient. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a conspicuous service cross recipient.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article;

provided, however, that an additional, one-time service charge of ten dollars shall be charged for such plate.

* NB There are 6 § 404-y's

*** § 404-y. Distinctive lupus awareness license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of lupus awareness and research bearing the phrase "Lupus Awareness". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "lupus research and education fund" established pursuant to section ninety-seven-pppp of the state finance law and shall be used for research and education programs undertaken pursuant to section ninety-seven-pppp of the state finance law.

* NB There are 6 § 404-y's

*** § 404-y. Distinctive sickle cell disease awareness license plates.** 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of sickle cell disease awareness and research bearing the phrase "Sickle Cell Disease Awareness". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe.

2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article;

provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "sickle cell disease research and education fund" established pursuant to section ninety-seven-pppp of the state finance law and shall be used for research and education programs undertaken pursuant to section ninety-seven-pppp of the state finance law.

* NB There are 6 § 404-y's

§ 404-z. Distinctive "Elks Association" license plates. 1. Any member of the New York state Elks association of the benevolent and protective order of the Elks residing in this state shall, upon request, be issued a license plate bearing the words "Elks Association". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant.

2. The distinctive plate authorized in this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is presently an active member of the New York state Elks association of the benevolent and protective order of the Elks.

3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate.

ARTICLE 14-A

APPORTIONMENT OR ALLOCATION OF REGISTRATION FEE AGREEMENT

Section 405. Authority to enter into agreements.
405-a. Application of article.
405-b. Administration of agreement.

405-c. Fees.
405-d. Registration period.
405-e. Effect of issuance.
405-f. Disposition of fees.
405-g. Refunds.
405-h. Effect on reciprocal recognition of registrations and other reciprocity or proration agreements.
405-i. Regulatory authority.

§ 405. Authority to enter into agreements. The commissioner is authorized and empowered to enter into a reciprocal agreement or agreements on behalf of this state with the duly authorized representatives of any state of the United States, the District of Columbia, or a state or province of a foreign country, or territory or possession of either the United States or of a foreign country to become a member of the international registration plan, or such other designation that may, from time to time, be given to such plan, developed by the American association of motor vehicle administrators for the purpose of providing for the registration of vehicles on an apportionment or allocation basis.

§ 405-a. Application of article. The provisions of the succeeding sections of this article shall take effect when this state enters into an agreement pursuant to the authority granted in section four hundred five of this article and shall remain in effect only so long as this state is a party to such an agreement.

§ 405-b. Administration of agreement. The commissioner may: 1. Accept applications for registrations, trip permits and any other document which he may be empowered to issue under any agreement authorized by section four hundred five of this article;

2. Collect from any applicant any and all fees required to be paid either to this state or to any other jurisdiction which is a party to

such agreement;

3. Provide for the crediting of fees previously paid for the unexpired portion of a registration when a conversion is made from a registration issued under article fourteen of this chapter to a registration issued under such agreement;

4. Accept any fees which are due to this state under any such agreement which are paid to any other jurisdiction or agency and which have been transmitted to him pursuant to any such agreement;

5. Pay or authorize the payment of any moneys collected by him on behalf of any other jurisdiction which is party to such agreement to such other jurisdictions;

6. Issue any number plate or plates, cab card, trip permit or any other document which he is authorized to issue under such agreement;

7. Appoint agents to act for him in the issuance of trip permits, provided that such agents shall not receive compensation from the state; and

8. By regulation establish limitations upon the period of validity of any trip permit issued for operation in this state or the number of such permits which may be issued to any vehicle or applicant.

§ 405-c. Fees. 1. The schedules of annual registration fees set forth in section four hundred one of this chapter shall constitute the schedules of registration fees applicable to vehicles registered in accordance with the provisions of any agreement entered into pursuant to the authority granted in section four hundred five of this article. Notwithstanding the provisions of section four hundred one of this chapter, proration of fees due to this state for a registration issued for a period of more or less than one year shall be prorated on a monthly basis and any portion of a month shall be considered a month. In addition, registration fees shall be subject to proration and

apportionment as provided in any such agreement.

2. In addition to the registration fees provided in subdivision one of this section, each applicant for such registration shall pay a fee of two dollars and fifty cents for each cab card, including a duplicate, issued by the commissioner in accordance with such agreement. If a number plate or plates is or are to be issued as a result of such application, the applicant shall also pay any fee which would be required of any applicant for registration of a similar type vehicle under section four hundred one of this title for the issuance of a number plate or plates.

3. The fee for a trip permit which allows operation of a vehicle within this state shall be eighteen dollars and seventy-five cents.

4. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in subdivisions two and three of this section in effect on and after September first, two thousand nine and the fees set forth in such subdivisions in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

§ 405-d. Registration period. The registration period for any vehicle registered pursuant to this article shall take effect and expire on dates determined by the commissioner after consultation with appropriate representatives of the commercial trucking industry in New York state.

§ 405-e. Effect of issuance. 1. Any vehicle for which a registration has been validly issued by another jurisdiction which is a member of any agreement entered into pursuant to the authority granted in section four hundred five of this article and for which a cab card which indicates that operation in this state is permitted under the agreement has been validly issued, shall be deemed for the purposes of article fourteen of this chapter to be registered in accordance with the provisions of this article, provided a proper number plate or plates is or are affixed to

the vehicle and the cab card is carried in such vehicle and is displayed upon the lawful request of a police officer or peace officer acting pursuant to his special duties.

2. Any vehicle for which a trip permit which indicates that operation in this state is permitted has been validly issued under such agreement shall be deemed for the purposes of article fourteen of this chapter to be registered in accordance with the provisions of that article, provided a number plate or plates is or are affixed to the vehicle and such trip permit is carried in or on the vehicle and is displayed upon the lawful request of a police officer or peace officer acting pursuant to his special duties.

3. Notwithstanding the provisions of subdivisions one and two of this section, a vehicle owned by a non-resident of this state shall not be deemed to be required to be registered in this state for the purposes of article forty-six of this chapter, the uniform vehicle certificate of title act.

§ 405-f. Disposition of fees. 1. Except as otherwise herein provided the provisions of section four hundred twenty-seven of this chapter shall not apply to any fee collected in accordance with the provisions of any agreement entered into pursuant to the authority granted in section four hundred five of this article.

2. The commissioner shall deposit all fees collected or accepted by him under this article in a responsible bank, banking house or trust company in the city of Albany which shall pay the highest rate of interest to the state for such deposit to the credit of the comptroller on account of the International Registration Plan. Every such bank, banking house or trust company shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safekeeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank, banking house or trust company, with interest thereon on daily balances at such

rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney general as to its form. The comptroller shall on the first day of each month make a verified return to the department of taxation and finance, of all fees received by him under this chapter during the preceding calendar month.

3. The commissioner shall at least on a quarterly basis determine the amount of fees in such account collected on behalf of and due and owing to other jurisdictions which are members of the agreement and certify the same to the comptroller. The comptroller shall then pay to the appropriate official of each such jurisdiction the amount of fees due to each such jurisdiction.

4. The comptroller, after reserving an amount sufficient to pay any refund under this article approved by the commissioner and by him and an amount, if any, that may be required to make payments to other jurisdictions pursuant to subdivision three of this section, shall on or before the tenth day of each month pay into the general fund of the state treasury the balance to his credit in such bank, banking house or trust company on account of fees collected under this article at the close of business on the last day of the month preceding the date of such payment.

5. The amount paid into the general fund pursuant to subdivision four of this section shall be deemed to be registration fees collected pursuant to article fourteen of this chapter and shall be subject to the provisions of law applicable to the disposition of such fees.

§ 405-g. Refunds. 1. The provisions of section four hundred twenty-eight of this chapter shall not apply to refunds of fees paid in accordance with the provisions of any agreement entered into pursuant to authority granted in section four hundred five of this article.

2. Any fee paid directly to the commissioner for the registration of a vehicle for operation within this state under the provisions of this

article which is to be paid into the general fund pursuant to section four hundred five-f of this article shall be refunded, less the sum of five dollars, provided that the commissioner is satisfied that the registration has not been used and all number plates, cab cards, and other documents have been surrendered to the commissioner within two months after the date the fee was paid or the beginning of the registration period for which the registration was issued, whichever comes later and application therefor is filed with the commissioner within the period of validity for which such registration was issued.

3. Any fee paid to any other jurisdiction on behalf of this state for operation of a vehicle within this state which has been forwarded to the commissioner by that jurisdiction shall be refunded less the sum of five dollars provided the jurisdiction which collected the fee has refunded to the applicant any fee collected by that jurisdiction on its behalf and any number plate, cab card or other document affecting operation in this state has been surrendered to such jurisdiction and the commissioner is satisfied that any such plate, cab card or other document has not been used within this state and an application for refund is made within the period of validity for which such registration was issued.

4. Where a refund of any part of a registration fee is made pursuant to the foregoing provisions of this section, the registration shall thereupon be automatically cancelled.

5. No fee paid for a trip permit for a cab card or for a number plate or plates shall be refunded.

6. Money paid for fees in conjunction with an application for registration under this article in excess of the amounts required by law may be refunded subject to approval of the commissioner provided application therefor is filed with the commissioner within one year after the date the fee was paid or on or before the expiration of the registration for which such fee was paid or within one year after issuance of an audit report indicating such excess payment whichever occurs later.

§ 405-h. Effect on reciprocal recognition of registrations and other reciprocity or proration agreements. 1. The provisions of article fourteen-B of this chapter and of paragraph (b) of subdivision three of section two hundred fifty of this chapter shall be applicable only with respect to jurisdictions which are not parties to any agreement this state has entered into pursuant to the authority granted in section four hundred five of this article.

2. Except as otherwise provided in this section, the provisions of section two hundred fifty of this chapter governing reciprocal recognition of registrations shall apply to any vehicle not covered by any agreement entered into by this state pursuant to the authority granted in section four hundred five of this article.

§ 405-i. Regulatory authority. The commissioner is authorized to promulgate rules and regulations to implement the administration of any agreement entered into pursuant to the authority granted in section four hundred five of this article.

ARTICLE 14-B

BUS TAXATION PRORATION AND RECIPROCITY AGREEMENT

Section 406. Bus taxation proration agreement.
407. Administrator defined.
408. Administration.
409. Notice of withdrawal.

§ 406. Bus taxation proration agreement. The bus taxation proration agreement is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I. Purposes and Principles.

Section 1. Purposes of Agreement. It is the purpose of this agreement to set up a system whereby any contracting state may permit owners of fleets of busses operating in two or more states to prorate the registration of the busses in such fleets in each state in which the fleets operate on the basis of the proportion of miles operated within such state to total fleet miles, as defined herein.

Section 2. Principle of Proration of Registration. It is hereby declared that in making this agreement the contracting states adhere to the principle that each state should have the freedom to develop the kind of highway user tax structure that it determines to be most appropriate to itself, that the method of taxation of interstate busses should not be a determining factor in developing its user tax structure, and that annual taxes or other taxes of the fixed fee type upon busses which are not imposed on a basis that reflects the amount of highway use should be apportioned among the states, within the limits of practicality, on the basis of vehicle miles traveled within each of the states.

ARTICLE II. Definitions.

(a) State. State shall include the states of the United States, the District of Columbia, the territories of the United States, the Provinces of Canada, and the States, Territories and Federal District of Mexico.

(b) Contracting State. Contracting state shall mean a state which is a party to this agreement.

(c) Administrator. Administrator shall mean the official or agency of a state administering the fee involved, or, in the case of proration of registration, the official or agency of a state administering the proration of registration in that state.

(d) Person. Person shall include any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

(e) Base State. Base state shall mean the state from or in which the bus is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled, or also in the case of a fleet bus the state to which it is allocated for registration under statutory requirements. In order that this section may not be used for the

purpose of evasion of registration fees, the administrators of the contracting states may make the final decision as to the proper base state, in accordance with Article III (h) hereof, to prevent or avoid such evasion.

(f) Bus. Bus shall mean any motor vehicle of a bus type engaged in the interstate transportation of passengers and subject to the jurisdiction of the Interstate Commerce Commission, or any agency successor thereto, or one or more state regulatory agencies concerned with the regulation of passenger transport.

(g) Fleet. As to each contracting state, fleet shall include only those busses which actually travel a portion of their total miles in such state. A fleet must include three (3) or more busses.

(h) Registration. Registration shall mean the registration of a bus and the payment of annual fees and taxes as set forth in or pursuant to the laws of the respective contracting states.

(i) Proration of registration. Proration of registration shall mean registration of fleets of busses in accordance with Article IV of this agreement.

(j) Reciprocity. Reciprocity shall mean that each contracting state, to the extent provided in this agreement, exempts a bus from registration and registration fees.

ARTICLE III. General Provisions.

(a) Effect on Other Agreements, Arrangements, and Understandings. On and after its effective date, this agreement shall supersede any reciprocal or other agreement, arrangement, or understanding between any two or more of the contracting states covering, in whole or in part, any of the matters covered by this agreement; but this agreement shall not affect any reciprocal or other agreement, arrangement, or understanding between a contracting state and a state or states not a party to this agreement.

(b) Applicability to Exempt Vehicles. This agreement shall not require registration in a contracting state of any vehicles which are in whole or part exempt from registration under the laws or regulations of such state without respect to this agreement.

(c) Inapplicability to Caravaned Vehicle. The benefits and privileges of this agreement shall not be extended to a vehicle operated on its own wheels, or in tow of a motor vehicle, transported for the purpose of

selling or offering the same for sale to or by any agent, dealer, purchaser, or prospective purchaser.

(d) Other Fees and Taxes. This agreement does not waive any fees or taxes charged or levied by any state in connection with the ownership or operation of vehicles other than registration fees as defined herein. All other fees and taxes shall be paid to each state in accordance with the laws thereof.

(e) Statutory Vehicle Regulations. This agreement shall not authorize the operation of a vehicle in any contracting state contrary to the laws or regulations thereof, except those pertaining to registration and payment of fees; and with respect to such laws or regulations, only to the extent provided in this agreement.

(f) Violations. Each contracting state reserves the right to withdraw, by order of the administrator thereof, all or any part of the benefits or privileges granted pursuant to this agreement from the owner of any vehicle or fleet of vehicles operated in violation of any provision of this agreement. The administrator shall immediately give notice of any such violation and withdrawal of any such benefits or privileges to the administrator of each other contracting state in which vehicles of such owner are operated.

(g) Cooperation. The administrator of each of the contracting states shall cooperate with the administrators of the others and each contracting state hereby agrees to furnish such aid and assistance to each other within its statutory authority as will aid in the proper enforcement of this agreement.

(h) Interpretation. In any dispute between or among contracting states arising under this agreement, the final decision regarding interpretation of questions at issue relating to this agreement shall be reached by joint action of the contracting states, acting through the administrator thereof, and shall upon determination be placed in writing.

(i) Effect of Headings. Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or part hereof.

(j) Entry into Force. This agreement shall enter into force and become binding between and among the contracting states when enacted or

otherwise entered into by any two states. Thereafter, it shall enter into force and become binding with respect to any state when enacted into law by such state. If the statutes of any state so authorize or provide, such state may become party to this agreement upon the execution thereof by an executive or administrative official thereof acting on behalf of and for such state.

ARTICLE IV. Proration of Registration.

(a) Applicability. Any owner of a fleet may register the busses of said fleet in any contracting state by paying to said state total registration fees in an amount equal to that obtained by applying the proportion of in-state fleet miles divided by the total fleet miles, to the total fees which would otherwise be required for regular registration of each and all of such vehicles in such contracting state.

All fleet pro-rata registration fees shall be based upon the mileage proportions of the fleet during the period of twelve months ending on August thirty-first next preceding the commencement of the registration year for which registration is sought, except, that mileage proportions for a fleet not operated during such period in the state where application for registration is made will be determined by the administrator upon the sworn application of the applicant showing the operations during such period in other states and the estimated operations during the registration year for which registration is sought, in the state in which application is being made; or if no operations were conducted during such period a full statement of the proposed method of operation.

If any busses operate in two or more states which permit the proration of registration on the basis of a fleet of busses consisting of a lesser number of vehicles than provided in Article II (g), such fleet may be prorated as to registration in such states, in which event the busses in such fleet shall not be required to register in any other contracting states if each such vehicle is registered in some contracting state except to the extent it is exempt from registration as provided in Article III (b).

If the administrator of any state determines, based on his method of

the operation thereof, that the inclusion of a bus or busses as a part of a fleet would adversely affect the proper fleet fee which should be paid to his state, having due regard for fairness and equity, he may refuse to permit any or all of such busses to be included in his state as a part of such fleet.

(b) Total Fleet Miles. Total fleet miles, with respect to each contracting state, shall mean the total miles operated by the fleet (1) in such state, (2) in all other contracting states, (3) in other states having proportional registration provisions, (4) in states with which such contracting state has reciprocity, and (5) in such other states as the administrator determines should be included under the circumstances in order to protect or promote the interest of his state; except that in states having laws requiring proration on the basis of a different determination of total fleet miles, total fleet miles shall be determined on such basis.

(c) Leased Vehicles. If a bus is operated by a person other than the owner as a part of a fleet which is subject to the provisions of this article, then the operator of such fleet shall be deemed to be the owner of said bus for the purposes of this article.

(d) Extent of Privileges. Upon the registration of a fleet in a contracting state pursuant to this article, each bus in the fleet may be operated in both interstate and intrastate operations in such state except as provided in Article III (e).

(e) Application for Proration. The application for proration of registration shall be made in each contracting state upon substantially the application forms and supplements authorized by joint action of the administrators of the contracting states.

(f) Issuance of Identification. Upon registration of a fleet, the state which is the base state of a particular bus of the fleet, shall issue the required license plates and registration card for such bus and each contracting state in which the fleet of which such bus is a part, operates, shall issue a special identification identifying such bus as a part of a fleet which has fully complied with the registration requirements of such state. The required license plates, registration cards and identification shall be appropriately displayed in the manner required by or pursuant to the laws of each respective state.

(g) Additions to Fleet. If any bus is added to a prorated fleet after

the filing of the original application, the owner shall file a supplemental application. The owner shall register such bus in each contracting state in like manner as provided for busses listed in an original application and the registration fee payable shall be determined on the mileage proportion used to determine the registration fees payable for busses registered under the original application.

(h) Withdrawals from Fleet. If any bus is withdrawn from a prorated fleet during the period for which it is registered or identified, the owner shall notify the administrator of each state in which it is registered or identified, of such withdrawal and shall return the plates, and registration card or identification as may be required by or pursuant to the laws of the respective states.

(i) Audits. The administrator of each contracting state shall, within the statutory authority of such administrator, make any information obtained upon an audit of records of any applicant for proration of registration available to the administrators of the other contracting states.

(j) Errors in Registration. If it is determined by the administrator of a contracting state, as a result of such audits or otherwise, that an improper fee has been paid his state, or errors in registration found, the administrator may require the fleet owner to make the necessary corrections in the registration of his fleet and payment of fees.

ARTICLE V. Reciprocity.

(a) Grant of Reciprocity. Each of the contracting states grants reciprocity as provided in this article.

(b) Applicability. The provisions of this agreement with respect to reciprocity shall apply only to a bus properly registered in the base state of the bus, which state must be a contracting state.

(c) Non-applicability to Fleet Busses. The reciprocity granted pursuant to this article shall not apply to a bus which is entitled to be registered or identified as part of a prorated fleet.

(d) Extent of Reciprocity. The reciprocity granted pursuant to this article shall permit the interstate operation of a bus and intrastate operation which is incidental to a trip of such bus involving interstate operation.

(e) Other Agreements. Nothing in this agreement shall be construed to prohibit any of the contracting states from entering into separate

agreements with each other for the granting of temporary permits for the intrastate operation of vehicles registered in the other state; nor to prevent any of the contracting states from entering into agreements to grant reciprocity for intrastate operation within any zone or zones agreed upon by the states.

ARTICLE VI. Withdrawal or Revocation.

Any contracting state may withdraw from this agreement upon thirty days written notice to each other contracting state, which notice shall be given only after the repeal of this agreement by the legislature of such state, if adoption was by legislative act, or after renunciation by the appropriate administrative official of such contracting state if the laws thereof empower him so to renounce.

ARTICLE VII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

§ 407. Administrator defined. As used in this agreement, with reference to this state, the term administrator shall mean the commissioner of motor vehicles.

§ 408. Administration. The administrator of the agreement for this state shall have the power to make such exemptions from the coverage of the agreement as may be appropriate and to make such changes in methods

for the reporting of any information required to be furnished to this state pursuant to the agreement as, in his judgment, shall be suitable; provided that any such exemptions or changes shall not be contrary to the purpose set forth in article one of the agreement and shall be made in order to permit the continuance of uniformity of practice among the contracting states with respect to busses. Any such exemption or change shall be made by rule or regulation and shall not be effective unless made by the same procedure required for other rules and regulations of his department. If not otherwise covered by statute, the administrator may make provision for publication of the rules and regulations contemplated by this section.

§ 409. Notice of withdrawal. Unless otherwise provided in any statute withdrawing this state from participation in the agreement, the governor shall be the officer to give notice of withdrawal therefrom.

ARTICLE 15
REGISTRATION OF MOTORCYCLES

Section 410. Registration of motorcycles; fees; renewals.
410-a. Motorcycle safety program.
411. Distinctive number; form of number plates.
411-a. Issuance of special number plates.
411-b. Registration fee schedule for historical motorcycles.
412. Punishment for violation.

§ 410. Registration of motorcycles; fees; renewals. 1. Registration by owners. No motorcycles shall be operated or driven upon the public highways of this state without first being registered in accordance with the provisions of this article, except as otherwise expressly provided in this chapter.

Every owner of a motorcycle which shall be operated or driven upon the public highways of this state shall, except as otherwise expressly provided, cause to be filed, by mail or otherwise, in the office or a

branch office of the commissioner, or with an agent of the commissioner, constituted as provided in this chapter, an application for registration, addressed to the commissioner, and on a blank to be prepared under the direction of and furnished by the commissioner for that purpose, containing: (a) A brief description of the motorcycle to be registered, including the name of the manufacturer and factory number of such vehicle; (b) the name, residence, including county and business address of the owner of such motorcycle.

2. Registration record. Upon the receipt of a sufficient application for registration, as provided in this article, the commissioner or agent receiving it shall register such motorcycle, and maintain a record of the registration of such motorcycle under the distinctive number assigned to such motorcycle, as provided in this section, and the information in such record may be obtained upon payment of the fees specified in section two hundred two of this chapter.

3. Certificate of registration. a. Upon the filing of such application and the payment of the fee hereinafter provided, the commissioner shall assign to such motorcycle a distinctive number and, without expense to the applicant, issue and deliver in such manner as the commissioner may select to the owner a certificate of registration, in such form as the commissioner may prescribe, and a number plate at a place within the state of New York named by the applicant in his application. In the event of the loss, mutilation or destruction of any certificate of registration or number plate, the owner of a registered vehicle may file such statement and proof of the facts as the commissioner shall require, with a fee of three dollars, in the office of the commissioner, or, unless and until the commissioner shall otherwise direct, in the office of the agent who issued the certificate or plate and the commissioner or his agent, as the case may be, shall issue a duplicate or substitute. No application for registration shall be accepted unless the applicant is at least sixteen years of age.

b. Upon the issuance of a certificate of registration, the commissioner shall provide the owner of such vehicle with a notice regarding the laws governing unidentifiable motorcycle parts, in such

form and manner as the commissioner may prescribe.

4. Times for registration and reregistration. Registration applied for and certificates issued under any application shall expire on a date determined by the commissioner. Registration shall be renewed periodically in the same manner and upon payment of the same annual fee as provided in this section for registration, to take effect and to expire on dates to be determined by the commissioner. Provided, however, that the commissioner shall have authority to fix the length of time for which any such vehicle which is registered without fee shall be registered. Provided further, however, that renewal of a registration may be used preceding the expiration date of such registration including such expiration date.

5. Registration fees. a. The annual fee for registration or reregistration of a motorcycle shall be eleven dollars and fifty cents. Beginning April first, nineteen hundred ninety-eight the annual fee for registration or reregistration of a motorcycle shall be seventeen dollars and fifty cents.

b. Where a registration is made for a period of more or less than one calendar year, the registration fee shall not be prorated. The provisions hereof with respect to the payment of registration fees shall not apply to motorcycles owned or controlled by the state, a city, county, village or town or any of the departments thereof, or any school district or county extension service association, but in other respects shall be applicable.

6. Fees in lieu of taxes. The registration fees imposed by this article upon such vehicles shall be in lieu of all taxes, general or local, to which motorcycles may be subject.

7. "Motorcycle" as used in this section shall mean a motorcycle as defined by section one hundred twenty-three of this chapter.

§ 410-a. Motorcycle safety program. 1. The commissioner shall

establish and administer a motorcycle safety program which shall consist of approved motorcycle rider training courses, motorcycle course instructor training, program promotion, and public awareness. Approved rider training courses shall meet nationally recognized standards for motorcycle rider training courses, or standards for motorcycle rider safety programs which are approved by the department and are comparable to the standards of the motorcycle safety foundation's motorcycle rider safety program. Approved courses shall include at least eight hours of instruction in the actual operation of a motorcycle. Monies from the motorcycle safety fund established pursuant to section ninety-two-g of the state finance law shall be used for the establishment and implementation of this program.

2. The commissioner shall issue a request for proposals for the coordination of a motorcycle safety program which shall set requirements for the preparation of bids. The commissioner shall enter into a contract, for a period of five years, with a motorcycle rider training coordinating organization selected pursuant to such process. The contract shall be awarded following the consideration of factors which shall include, but not be limited to, the most favorable financial advantage for the state, the greatest utility to the motorcyclist, the comprehensiveness and effectiveness of such organization and its compatibility with the existing rider education programs. The motorcycle rider training coordination organization shall be subject to periodic reporting requirements established by the department outlining the administration and effectiveness of its program and an itemization of all motorcycle safety fund allocations. Such motorcycle rider training coordinating organization shall have at least three years experience in the administration of a statewide motorcycle rider education program, and have as its administrator an individual who has no financial or proprietary interest in a motorcycle training school or facility.

3. The motorcycle rider training coordinating organization shall submit to the commissioner for approval requests for advances pursuant to a contract and reimbursements from the motorcycle safety fund for equipment, operating and administrative costs and other expenses necessary to carry out the provisions of this section. The commissioner

shall approve all such requests for expenditures that are in accordance with the provisions of this section.

4. The commissioner shall annually file a report on expenditures from the motorcycle safety fund, established pursuant to section ninety-two-g of the state finance law, with the legislature. Such report shall include the name of the funded motorcycle rider training coordinating organization and the amount of funds distributed to it and shall provide an evaluation of the overall effectiveness of the funded programs and any recommendations for programmatic changes.

§ 411. Distinctive number; form of number plates. 1. No person shall operate or drive a motorcycle on the public highways of this state unless such motorcycle shall have a distinctive number assigned to it by the commissioner and a number plate issued by the commissioner with a number corresponding to that of the certificate of registration conspicuously displayed on the rear of such motorcycle, securely fastened so as to prevent the same from swinging.

2. Such number plates shall be of such material, form, design and dimensions and contain or set forth such distinguishing number or other identification marks as the commissioner shall prescribe, provided, however, that there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon, and provided further that no motorcycle shall display the number plates of more than one state at a time, nor shall any plate be used other than those issued by the commissioner.

3. No person shall operate or drive a motorcycle upon the public highways of this state having displayed thereon a number plate not proper for such motorcycle under the provisions of this chapter and, upon conviction for this offense, the number plate shall be surrendered to the court for delivery to the commissioner.

4. No person shall knowingly authorize or permit a number plate issued for a motorcycle owned and registered by him to be displayed on any

motorcycle other than a motorcycle to which such number plate has been assigned by the commissioner, or upon which such number plate may legally be displayed under a temporary certificate of registration issued by a dealer under the provisions of section four hundred twenty of this chapter.

§ 411-a. Issuance of special number plates. 1. The commissioner may issue special number plates to applicants therefor in the same manner as other number plates are issued pursuant to this article. Such special number plates shall be issued only upon payment of an annual service charge of eighteen dollars and seventy-five cents in addition to the regular fee prescribed by section four hundred ten of this article. Application for special number plates shall be made in accordance with regulations promulgated by the commissioner with respect to issuance of such number plates. Notwithstanding any inconsistent provision of this section, the difference collected between the service charge set forth in this subdivision in effect on and after September first, two thousand nine and the service charge set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

2. For purposes of this section, a special number plate shall be a plate which contains not more than six letters, numerals or any combination thereof and which is reserved by the commissioner for issuance in accordance with the provisions of this section, or a plate reserved for issuance in a series for motorcycles owned by public officers, physicians, accredited representatives of the press or other groups. In issuing special number plates the commissioner shall give those applicants who held a special number plate at the time of the enactment of this section the right to retain such special number plate upon the payment of the annual service charge of fifteen dollars. Provided, however, that such right of retention shall apply only to the first renewal of the registration of such special number plate following the enactment of this section.

3. This section shall not apply to any plates in a series reserved in

the public interest for purposes of facilitating identification of state and municipal motorcycles and those owned by members of international governmental organizations or any other vehicles which are exempt from the payment of registration fees, nor to plates or series of plates assigned by the commissioner for issuance by county clerks.

4. Nothing contained in this section shall be construed to require the commissioner to issue a special number plate or plates.

§ 411-b. Registration fee schedule for historical motorcycles. For each motorcycle which is owned and operated as an exhibition piece or collectors item, and is used for participation in club activities, exhibit, tours, parades, occasional transportation and similar uses, but not used for general daily transportation, an annual fee of twenty-five dollars. For purposes of this section, a historical motorcycle shall mean any motorcycle manufactured more than twenty-five years prior to the current calendar year, and any other model, year and type motorcycle which has unique characteristics and which is determined by the commissioner to be of historical, classic or exhibition value. Registration plates for such motorcycles shall be of a type and design approved by the commissioner, but shall be of a distinctive nature, except that, with the approval of the commissioner, an owner of any such motorcycle may utilize registration plates of this state with the date of year corresponding to the model year date when the vehicle was manufactured, if the model year date registration plate is legible and serviceable, as determined by the department, in lieu of the registration plates otherwise required by this chapter. Such plates shall be used only for the operation of the motorcycle listed on the registration application and on other motorcycles which would qualify for registration under this schedule owned by persons other than the registrant for the purpose of test driving by the registrant or his agent in anticipation of possible purchase. No such registration will be issued unless evidence of financial security, in a form prescribed by the commissioner, is submitted which provides coverage for the motorcycle listed on the registration application and for non-owned motorcycles being operated with such plates. Notwithstanding any

inconsistent provision of this section, the difference collected between the fees set forth in this section in effect on and after September first, two thousand nine and the fees set forth in this section in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

§ 412. Punishment for violation. The violation of any of the provisions of section four hundred ten of this chapter shall be punishable by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment except, if the violation consists of failure to renew a registration which was valid within sixty days, the fine shall be not less than twenty-five dollars. A violation of any of the provisions of section four hundred eleven of this chapter shall be punishable by a fine of not less than twenty-five nor more than two hundred dollars or by imprisonment for not more than fifteen days, or by both such fine and imprisonment.

ARTICLE 15-A

RECIPROCITY AGREEMENTS FOR THE RECOGNITION OF THE AGRICULTURAL TRUCK REGISTRATION CLASS

Section 413. Reciprocity agreements for the recognition of the agricultural truck registration class.

§ 413. Reciprocity agreements for the recognition of the agricultural truck registration class. The commissioner is authorized and empowered to enter into a reciprocal agreement or agreements on behalf of the state with the duly authorized representatives of any state of the United States, the District of Columbia, or a state or province of a foreign country, or territory or possession of either the United States or of a foreign country, to effectuate the reciprocal recognition by these jurisdictions of the New York state agricultural truck registration class as set forth in schedule E of subdivision seven of section four hundred one of this title. The commissioner is granted, as

part of any such reciprocal agreement or agreements, the authority to recognize the equivalent motor vehicle registration class of other jurisdictions which are parties to any such agreement or agreements as being a fully reciprocal agricultural truck registration class within the state of New York. Provided, however, that nothing contained in this section shall be deemed to supersede any of the provisions of section two hundred fifty of this chapter applicable to agricultural trucks.

ARTICLE 16

REGISTRATION OF DEALERS AND TRANSPORTERS

Section 415. Registration of manufacturers, dealers, repairmen and others.

415-a. Vehicle dismantlers and other persons engaged in the transfer or disposal of junk and salvage vehicles.

415-b. Local regulation of vehicle dismantlers in cities having a population in excess of one million.

415-c. Sale of salvaged inflatable restraint systems; restrictions.

416. Limited use of dealer's and transporter's number plates by vendee or lessee.

416-a. Bumper quality label requirements.

416-b. Vehicle data recording devices.

417. Certificates by retail dealers on sales of second hand motor vehicles.

417-a. Mandatory disclosures by sellers prior to resale.

417-b. Mandatory disclosures by second-hand dealers prior to resale.

417-c. Mandatory disclosures by sellers prior to resale.

418. Punishment for violations.

419. Recreational vehicle shows or exhibits.

419-a. Inflatable restraint system, required equipment upon sale.

§ 415. Registration of manufacturers, dealers, repairmen and others.

1. Definitions. The following terms when used in this article, shall be

deemed to mean and include:

a. "Dealer" means a person engaged in the business of buying, selling or dealing in motor vehicles, motorcycles or trailers, other than mobile homes or manufactured homes, at retail or wholesale; except, however, trailers with an unladen weight of less than one thousand pounds. For the purposes of this section, a "mobile home" or "manufactured home" means a mobile home or manufactured home as defined in section one hundred twenty-two-c of this chapter. Any person who sells, or offers for sale more than five motor vehicles, motorcycles or trailers in any calendar year or who displays or permits the display of three or more motor vehicles, motorcycles or trailers for sale at any one time or within any one calendar month upon premises owned or controlled by him or her, if such vehicles were purchased, acquired or otherwise obtained by such person for the purpose of resale, will be regarded as a dealer. Except as otherwise provided in subdivisions three, five, six-b, and seven of this section, the term "dealer" shall include a "new motor vehicle dealer" as defined by paragraph f of this subdivision and a "qualified dealer" as defined in paragraph g of this subdivision.

b. "Person" means any natural person, firm, corporation, partnership, limited liability company, entity, joint venture, association or organization.

c. "Place of business" means a designated location at which the business of the dealer is conducted, and, in relation to a retail dealer, facilities for displaying new or used motor vehicles.

d. "Retail dealer" means a dealer whose business consists in whole or in part of buying, selling or dealing in motor vehicles, motorcycles or trailers at retail.

e. "Wholesale dealer" means a dealer whose business consists exclusively of buying, selling or dealing in motor vehicles, motorcycles or trailers at wholesale.

f. "New motor vehicle dealer" means a dealer who engages in the

activities described in paragraph a of this subdivision if such activities relate to new motor vehicles and if such dealer is party to a franchise, as the terms "new motor vehicle" and "franchise" are defined in section four hundred sixty-two of this title; provided, however, for purposes of this definition, a new motor vehicle shall include only those motor vehicles commonly classified as a passenger automobile, sport utility vehicle, light truck, pickup truck, van, minivan, or suburban, with a gross vehicle weight rating of ten thousand pounds or less, and shall not include (i) any such vehicle which has been converted for use as a tow truck, or (ii) a motor vehicle for which the current ownership document is a statement of acquisition issued pursuant to section four hundred twenty-nine of this title, a salvage certificate, salvage certificate of title, nonrepairable certificate, or similar document issued by any state or jurisdiction; or (iii) any motor vehicle commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home or construction equipment; and provided further that: (i) a dealer is a new motor vehicle dealer only with respect to those vehicles which are of the same make as those which that dealer is authorized to sell at that location pursuant to a valid franchise agreement; and (ii) a dealer is not acting as a new motor vehicle dealer when displaying, advertising, storing and/or demonstrating a new mobility vehicle.

g. "Qualified dealer" means a dealer, other than a new motor vehicle dealer or a dealer owned in whole or in part, directly or indirectly, by a manufacturer, who:

(i) acting through a single person, but operating at one or more locations of such single person, has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of four thousand new and/or used motor vehicles annually (of which at least forty percent annually were new motor vehicles) at retail regardless of make or model from any one or more locations of such single person within the state, in each year from nineteen hundred ninety-five through and including nineteen hundred ninety-eight, exclusively; or

(ii) has displayed new motor vehicles for sale and/or lease, and has

sold and/or leased (excluding sales or leases of any affiliates) a minimum of two hundred twenty-five new and/or used motor vehicles (of which at least thirty-three and one-third percent were new motor vehicles) at retail, regardless of make or model, from any one or more locations within the state, in the twelve-month period preceding August thirty-first, nineteen hundred ninety-nine; or

(iii) was issued an original certificate of registration as a dealer with a validation date of May, nineteen hundred ninety-nine, has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of one hundred fifty new and/or used motor vehicles (of which at least fifty were new motor vehicles), regardless of make or model, from any one or more locations within the state, in the period between July first, nineteen hundred ninety-nine and the effective date of chapter seven of the laws of two thousand. Notwithstanding the provisions of subdivision eighteen of this section, the total number of locations from which a qualified dealer eligible pursuant to this subparagraph may operate shall not exceed that number of locations operated by such qualified dealer on August thirty-first, nineteen hundred ninety-nine; or

(iv) was issued a certificate of registration as a dealer new and used with a validation date of February, nineteen hundred ninety-eight and has continuously held a certificate of registration as a dealer for the ten years preceding the effective date of chapter seven of the laws of two thousand, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of two hundred new and/or used motor vehicles (of which at least twenty percent were new motor vehicles) regardless of make or model, from one or more locations within the state in the period between September first, nineteen hundred ninety-eight through and including August thirty-first, nineteen hundred ninety-nine.

h. For the purposes of this section, "new motor vehicle" means a motor vehicle commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban which meets any one or more of the following criteria:

(i) a motor vehicle which has not been placed in consumer use; or

(ii) a motor vehicle which has not been transferred to someone other than a distributor, new motor vehicle dealer, or qualified dealer; or

(iii) a motor vehicle which has less than one thousand miles on the odometer.

Provided, however, that such term shall not include any such vehicle which has been converted for use as a tow truck or any motor vehicle commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home or construction equipment.

i. "Used motor vehicle" means any vehicle not included in the definition of a new motor vehicle. Provided, however, that such term as used in paragraph g of this subdivision shall include only those motor vehicles commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban, with a gross vehicle weight rating of ten thousand pounds or less, which (i) is not deemed to be a "new motor vehicle" pursuant to paragraph h of this subdivision, or (ii) has not been converted for use as a tow truck, or (iii) is not commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home, or construction equipment.

j. "Lease" means to arrange for a person to enter into an agreement subject to the provisions of article nine-A of the personal property law, or to act as a lessor as defined in such article.

k. "Mobility vehicle" means a motor vehicle that is specially converted and equipped to transport a person with a disability and is altered or modified for such use by an alterer or final stage manufacturer pursuant to parts 567 and 568 of title 49 of the code of federal regulations or a modifier pursuant to part 595 of title 49 of the code of federal regulations and that:

(i) has a chassis that contains: (A) a permanently lowered floor or permanently lowered frame; or (B) a permanently raised roof and raised door; and

(ii) contains at least one of the following: (A) an electronic or mechanical wheelchair, scooter, or platform lift that enables a person to enter or exit the vehicle while occupying a wheelchair or scooter;

(B) an electronic or mechanical wheelchair ramp that is installed as an integral part or permanent attachment to the motor vehicle.

For the purposes of this section, the terms "alterer" and "final-stage manufacturer" shall have the same meanings as such terms are defined in part 567.3 of title 49 of the code of federal regulations, and the term "modifier" shall mean any motor vehicle repair business that modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle.

l. "New mobility vehicle" means a mobility vehicle that has not previously been titled or registered for operation by a consumer, either as a mobility vehicle or as a motor vehicle.

m. "Automobile broker business" shall have the meaning set forth in subdivision one of section seven hundred thirty-six of the general business law.

2. Registration of manufacturers, repairmen and certain others. A person engaged in a business requiring the limited operation of motor vehicles, motorcycles or trailers in order to facilitate the delivery, repair or improvement thereof, or the foreclosure or repossession thereof or the installation of something thereon or for the purpose of dismantling such motor vehicle, motorcycle or trailer, may, instead of obtaining vehicle registration, as provided by sections four hundred one and four hundred ten of this chapter, apply to the commissioner for registration under this section.

3. Registration of new motor vehicle dealers, qualified dealers, and other motor vehicle dealers. a. No person shall engage in business as a new motor vehicle dealer, or represent, advertise, or otherwise hold himself or herself out as engaged or intending to engage in the business of selling new motor vehicles in this state, unless there shall have been issued to him or her, for a particular make, a certificate of registration as a new motor vehicle dealer as provided in subdivision seven of this section, or unless there shall have been issued to him or her a certificate of registration as a qualified dealer as defined in

paragraph g of subdivision one of this section; provided, however, for purposes of this subdivision, a new motor vehicle shall have the same meaning as set forth in paragraph h of subdivision one of this section, but shall not include a motor vehicle for which the current ownership document is a statement of acquisition issued pursuant to section four hundred twenty-nine of this title, a salvage certificate, salvage certificate of title, nonrepairable certificate, or similar document issued by any state or jurisdiction. Only a person who has been issued a certificate as a new motor vehicle dealer or a qualified dealer shall be entitled to engage in all dealer activities authorized under this article and shall not be required to obtain an additional certificate of registration under paragraph c of subdivision seven of this section. A qualified dealer shall be entitled to sell new motor vehicles of any make.

b. No person shall engage in the business of selling new motor vehicles, or represent or advertise that he or she is engaged or intends to engage in the business of selling new motor vehicles in this state, unless there shall have been issued to him or her a certificate of registration as a new motor vehicle dealer or as a qualified dealer as provided in subdivision seven of this section. No person shall engage in business as a dealer, or represent or advertise that he or she is engaged or intends to engage in such business in this state, unless there shall have been issued to him or her a certificate of registration as provided in subdivision seven of this section. No provision of this section shall be deemed to prohibit any dealer located outside of the state from selling a new motor vehicle to a new motor vehicle dealer or a qualified dealer. No provision of this section shall be deemed to prohibit any person engaged in the leasing of new motor vehicles from selling a new motor vehicle to a third-party bank, finance company or other commercial lending institution, provided that such sale is made incidental to and concurrently with the lease of such new motor vehicle by such third party bank, finance company, or other commercial lending institution as the lessor, to a retail customer.

c. The issuance of such certificate of registration to a new motor vehicle dealer, a qualified dealer, or other motor vehicle dealer shall

be deemed to include the right to operate motor vehicles, motorcycles and trailers to the extent permitted by subdivision eight of this section, instead of obtaining vehicle registration as provided by sections four hundred one and four hundred ten of this title. The provisions of this section shall not apply to persons engaged in the business of buying, selling or dealing in snowmobiles and/or snow travellers.

3-a. Automobile broker business registration. No person shall engage in the automobile broker business or represent or advertise that he or she is engaged or intends to engage in the automobile broker business in this state, unless there shall have been issued to him or her a certificate of registration as an automobile broker business by the commissioner under this section pursuant to an application for registration submitted pursuant to subdivision five of this section.

4. Number plates. A dealer, manufacturer, or other person, qualifying for limited use of motor vehicles, motorcycles or trailers under subdivisions two and three of this section, shall be entitled to receive one or more sets of number plates for display thereon as the commissioner may determine, upon payment of the required fee for each set. Number plates issued to dealers under this section shall bear distinctive marks to distinguish them from manufacturer and transporter plates to be issued to other persons qualifying under this section. Number plates issued to manufacturers under this section shall bear distinctive marks to distinguish them from dealer and transporter plates to be issued to other persons qualifying under this section. A set of number plates shall consist of two plates in the case of a motor vehicle and one plate in the case of a motorcycle or trailer; provided, however, that the commissioner, in his or her discretion, may issue, for any registration year, only one number as a set for a motor vehicle, in which event a set of number plates for a motor vehicle shall consist of one plate.

5. Application for registration. The application for registration under this section shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, setting forth:

a. Name and residence address of applicant; if an individual, the name under which he intends to conduct business; if a co-partnership, the name and residence address of each member thereof, and the name under which the business is to be conducted; if a corporation, the name of the corporation and the name and residence address of each of the officers.

b. The place or places, including the complete address or addresses where the business is to be conducted and, in the case of an application to do business as a new motor vehicle dealer, the names of each line or make of new motor vehicle which a manufacturer or distributor has authorized the applicant to sell from each location and the date of inception of the franchise, as defined in section four hundred sixty-two of this title, which authorizes the applicant to sell such line or make from each location. A copy of each such franchise, or other documentation in lieu thereof satisfactory to the commissioner, shall be submitted to the commissioner at the time of application and upon each renewal of each certificate to do business as a new motor vehicle dealer.

b-1. The name and address of the surety company which will issue the bond required by subdivision six-b of this section. If the bond is to be issued by an authorized agent of the surety company licensed by the state, then the name and address of that agent may be provided in lieu of the information concerning the surety company.

b-2. A statement indicating any interest in the applicant's franchise entity by a person or entity described in paragraph f of subdivision seven of this section.

b-3. In the case of an application for registration as an automobile broker business, the name and address of the surety company which will issue the bond required by subdivision one of section seven hundred forty-a of the general business law. If the bond is to be issued by an authorized agent of the surety company licensed by the state, then the name and address of that agent may be provided in lieu of the information concerning the surety company.

c. Such further information as the commissioner may reasonably prescribe.

d. Before an application for an original certificate of registration is approved, the applicant must have on the premises to be licensed adequate space and proper facilities to retain and safeguard all records and documents he must maintain upon the licensed premises as required by the vehicle and traffic law and the regulations of the commissioner.

The commissioner may require the applicant for registration to appear at such time and place as may be designated by the commissioner for examination to enable him to determine the accuracy of the facts set forth in the written application, either for initial registration or renewal thereof.

Every application under this section shall be verified by the applicant.

* 6. Fees. Every original application for registration as a dealer, automobile broker or transporter shall be accompanied by an application fee of thirty-seven dollars and fifty cents, which shall in no event be refunded. The annual fee for registration as a dealer, automobile broker or transporter or for renewal thereof shall be two hundred twenty-five dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his or her discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer, manufacturer, or transporter number plates shall be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be five dollars. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document upon voluntary cancellation of registration.

* NB Effective until April 1, 2028

* 6. Fees. Every original application for registration as a dealer, automobile broker or transporter shall be accompanied by an application fee of twenty-five dollars, which shall in no event be refunded. The annual fee for registration as a dealer, automobile broker or transporter or for renewal thereof shall be one hundred fifty dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his or her discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer, manufacturer, or transporter number plates shall be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be one dollar. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document upon voluntary cancellation of registration.

* NB Effective April 1, 2028

* 6-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund, with the exception of the four dollar increase in the fee for issuance of a document to be used by a dealer to sell or transfer a vehicle collected pursuant to subdivision six of this section, which shall be deposited to the general fund through March thirty-first, two thousand four and from April first, two thousand four and thereafter to the dedicated highway and bridge trust fund; and with the exception of the twelve dollar and fifty cent increase in the fee for original application for registration as a dealer or transporter pursuant to subdivision six of this section and the seventy-five dollar increase in the annual fee for registration as a dealer or transporter or for renewal pursuant to subdivision six of this section, which shall be deposited to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law.

* NB Effective until April 1, 2028

* 6-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund.

* NB Effective April 1, 2028

6-b. Dealer, qualified dealer, and new motor vehicle dealer surety bond. a. As a condition to obtaining a registration certificate pursuant to this section, every new motor vehicle dealer applicant and every qualified dealer applicant shall obtain and continue in effect a surety bond in an amount of fifty thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition to obtaining a registration certificate pursuant to this section, every dealer applicant who is applying for a registration certificate in the first instance or who sold fifty motor vehicles or fewer in the previous calendar year shall obtain and continue in effect a surety bond in an amount of twenty thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition of obtaining a registration certificate pursuant to this section, every dealer applicant who sold more than fifty motor vehicles in the previous calendar year shall obtain and continue in effect a surety bond in an amount of one hundred thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. The bonds shall be approved as to form by the commissioner and shall be conditioned on the new motor vehicle dealer's, qualified dealer's, and dealer's: payment of all valid bank drafts, including checks, drawn by such dealer for the purchase of motor vehicles; transfer of good title to each motor vehicle such dealer sells; safekeeping of all customer deposits related to the sale of a motor vehicle between the time of receipt of such customer deposit and the transfer of good title to the vehicle to the customer; payment for all fines imposed upon the new motor vehicle dealer, qualified dealer, or dealer by the commissioner pursuant to the provisions of this chapter; and such dealer's repayment of any overcharges of a customer by such dealer for the vehicle registration and titling charges payable to the commissioner for registering and titling the sold vehicle. Any such

dealer which is bonded pursuant to this section prior to the effective date of the chapter of the laws of two thousand sixteen which amended this paragraph shall be required to comply with the amendments made by such chapter upon renewal, replacement, alteration, or extension of such dealer's current surety bond.

b. Recovery against a bond may be made by a person, including the state, who obtains a judgment against the new motor vehicle dealer, qualified dealer, or dealer for an act or omission on which the bond is conditioned if the act or omission occurred during the term of the bond. The total liability imposed on the surety under this section for all breaches of the bond condition is limited to the face amount of the bond. Such liability may include, but is not limited to, the amount of the valid bank drafts, including checks, drawn by the new motor vehicle dealer, qualified dealer, or dealer for the purchase of motor vehicles or the amount of overcharge by such dealer for registration or title fees or the amount paid to such dealer or the deposit, as the case may be, for the motor vehicle for which good title was not delivered. In no event shall the surety on a bond be liable for total claims in excess of the bond amount, regardless of the number or nature of claims made against the bond or the number of years the bond remained in force, nor shall any such surety bond provide coverage for transactions involving sales of any motor vehicles for which a bond is not required pursuant to the provisions of paragraph d of this subdivision.

c. Any surety issuing a bond pursuant to this subdivision shall be required to provide sixty days' notice to the commissioner prior to the effective date of cancellation or lapse of the bond, and shall provide additional notice to the commissioner upon the date of the cancellation or lapse of such bond. Upon the cancellation or lapse of any surety bond required by this subdivision, the commissioner shall, within five days of such cancellation or lapse, verify that the dealer holds a surety bond which meets the requirements of this subdivision.

d. For purposes of this subdivision, the term "motor vehicle" means a motor vehicle commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan, or suburban,

with a gross vehicle weight rating of ten thousand pounds or less. Notwithstanding the provisions of paragraphs a and b of this subdivision, the requirement to post a surety bond as set forth in this subdivision shall not apply to any dealer who is engaged exclusively in the business of buying, selling or dealing in motor vehicles other than those motor vehicles with a gross vehicle weight rating of ten thousand pounds or less and which are commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan, or suburban, such as buses, school buses, garbage trucks, marine trailers, tow trucks, motorcycles, recreational vehicles, snowmobiles, trailers, mobile homes, or construction equipment. Provided, further, that such requirement also shall not apply to any dealer who is engaged exclusively in the business of buying, selling or dealing in motor vehicles solely for conversion for use as a tow truck.

7. Issuance of certificate. a. If the commissioner is satisfied that the applicant for a new motor vehicle dealer registration certificate is party to a franchise or franchises authorizing such applicant to sell or lease lines or makes of new motor vehicles which the applicant proposes to sell or lease from the locations described in the application for the sale or lease of such lines or makes and if the commissioner otherwise approves the application, upon payment of the prescribed fee, he or she shall issue a new motor vehicle dealer registration certificate in such form as he or she may prescribe. Every new motor vehicle dealer registration certificate shall by its terms permit the sale or lease of the particular lines or makes of new motor vehicles only from a location or locations authorized for such sale or lease in the franchise or franchises between such new motor vehicle dealer and the manufacturers or distributors of such new motor vehicles. The commissioner may, in his or her discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision six of this section for such certificate shall be prorated on a monthly basis. A new motor vehicle dealer registered under this section shall notify the commissioner of any change of address of the locations of his or her place or places of business and whether or not such locations are approved as locations for the sale or lease of new motor vehicles in a franchise and which lines or makes are so

approved for sale or lease at each location pursuant to the franchise or franchises within thirty days after such change is made, and the commissioner shall be authorized to cancel the registration upon failure to give such notice. A copy of each franchise affected by any such change or other proof satisfactory to the commissioner shall accompany the notice to the commissioner. If any location shall cease to be approved by the new motor vehicle manufacturer or distributor for the sale or lease of the line or make of new motor vehicle, then such new motor vehicle dealer shall immediately cease selling or leasing such line or make of new motor vehicle from such location and shall notify the commissioner within thirty days of such change, after which such new motor vehicle dealer registration certificate shall be modified to reflect such change.

b. Registration certificate for qualified dealer. If a dealer makes application, under penalty of perjury, for a registration certificate as a qualified dealer, the commissioner shall issue a registration as a qualified dealer to such dealer upon payment of the prescribed fee.

c. Registration certificate for other than new motor vehicle dealer or qualified dealer. If the commissioner approves the application of an applicant for a registration certificate other than a new motor vehicle dealer certificate or a qualified dealer certificate, upon payment of the prescribed fee, he or she shall issue a registration certificate in such form as he or she may prescribe.

c-1. Special provisions relating to mobility vehicles. (i) Any dealer, other than a new motor vehicle dealer, engaged in displaying, advertising, storing and/or demonstrating mobility vehicles shall notify prospective purchasers regarding any warranty on the mobility modifications and the effect of any such modifications or alterations on any warranty on the underlying motor vehicle and, upon the sale of any such mobility vehicle, provide the purchaser with any warranty information available to any such dealer relating to the underlying motor vehicle.

(ii) Notwithstanding the provisions of article twelve-A of this chapter, a dealer engaged in displaying, advertising, storing and/or

demonstrating mobility vehicles may, without obtaining a repair shop license pursuant to such article twelve-A, perform repairs on those parts of the mobility vehicle that are unique to the modifications made thereto and which are not part of the original manufactured motor vehicle.

d. The commissioner may, in his or her discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision six of this section for such certificate shall be prorated on a monthly basis. A registrant shall notify the commissioner of any change of address of his or her principal place of business within thirty days after such change is made, and the commissioner shall be authorized to cancel the registration upon failure to give such notice.

e. A registration issued under this section may be renewed upon application therefor in such form as the commissioner may prescribe, upon payment of the fee as herein prescribed.

f. Except as provided in paragraph (bb) of subdivision two of section four hundred sixty-three of this title and subparagraph (iii) of this paragraph:

(i) The commissioner shall not issue any certificate of registration authorized by this section to any franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, except that the commissioner may renew such certificate previously issued or otherwise approved to operate to a franchisor prior to July first, two thousand six. Nothing in this section shall preclude the establishment of such facilities necessary to continue the ongoing operation of any holder of a certificate of registration authorized by this section or otherwise approved to operate to a franchisor provided such original certificate or approval was granted prior to July first, two thousand six.

(ii) On or after the effective date of this subparagraph, the commissioner shall not issue any certificate of registration, or renew any certificate, unless the original certificate was issued before July

first, two thousand six, to any motor vehicle dealer in which a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or any subsidiary, affiliate or controlled entity thereof, has acquired, or possesses, a controlling interest in the franchise entity except:

(1) when operating such franchise for a temporary period, not to exceed one year, during the transition from one owner of the motor vehicle dealership to another, provided, however, that such temporary period may be extended once for an additional period not to exceed one year for good cause. Provided that for franchisors of house coaches, the period of temporary ownership of a franchised house coach dealership may be extended in one year increments for good cause shown, except that the aggregate of such extensions shall not exceed five years; or

(2) when operating such franchise temporarily under a plan with an independent individual who is obligated to make a significant investment in the dealership that is subject to loss and has an ownership interest or expects to acquire full ownership in a reasonable period under reasonable terms and conditions, provided that a reasonable period shall be presumed to not exceed eight years.

(iii) Notwithstanding any other provision of this paragraph or any provision of paragraph (bb) of subdivision two of section four hundred sixty-three of this title, the commissioner may renew any certificate of registration that was issued to a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, prior to March twenty-sixth, two thousand fourteen; provided, however, that such franchisor, manufacturer, distributor, distributor branch or factory branch, or any subsidiary, affiliate or controlled entity thereof, is a manufacturer that manufactures or assembles exclusively zero emissions vehicles, or is a subsidiary, affiliate, or controlled entity of such a manufacturer; and provided further that a controlling interest in such original franchisor, manufacturer, distributor, distributor branch or factory branch or any subsidiary, affiliate or controlled entity was not transferred, sold or conveyed to another person or entity, other than to a subsidiary, affiliate or controlled entity of such franchisor,

manufacturer, distributor, distributor branch or factory branch. For purposes of this paragraph, zero emission vehicles shall have the same meaning as under part two hundred eighteen of title six of the New York code of rules and regulations.

(iv) Notwithstanding any other provision of this paragraph or any provision of paragraph (bb) of subdivision two of section four hundred sixty-three of this title, the commissioner may issue or renew any certificate of registration to a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, that manufactures or assembles buses exclusively; provided, however, that such certificate shall be issued exclusively for the sale of buses to public transportation providers; and provided further, however, that such franchisor, manufacturer, distributor, distributor branch or factory branch, or any subsidiary, affiliate or controlled entity thereof: (1) is a manufacturer that manufactures or assembles exclusively buses, or is a subsidiary, affiliate, or controlled entity of such a manufacturer; and (2) sells such buses under such certificate of registration solely to public transportation providers. For purposes of this subparagraph, the term "public transportation provider" shall mean public transportation systems eligible to receive operating assistance under the provisions of section eighteen-b of the transportation law, and the term "public transportation system" shall mean: (A) any public benefit corporation constituting a transportation authority, or a subsidiary thereof, or any public transportation corporation constituted as an instrumentality of the state, or a subsidiary thereof, directly or through a contract with another entity, that provides mass transportation services to the general public; or (B) any Indian tribe or any county, city, town or village that provides mass transportation services to the general public directly or through a contract with another entity pursuant to section one hundred nineteen-r of the general municipal law.

8. Use. Transporter number plates issued under this section shall be used only for the limited operation of vehicles owned or controlled by the registrant for the purpose of weighing, testing, dismantling, transporting or delivering the same, or for the purpose of moving such

vehicles in connection with making installations thereon or improvements thereto, or the repossession or foreclosure thereof, or for the operation, for demonstration purposes, of any vehicle owned by a manufacturer, or for transporting or delivering the vehicle upon which the plates are displayed and additional vehicles carried in whole or in part upon such vehicle.

Except as provided in section four hundred sixteen of this article, dealer number plates issued under this section may be used for all purposes for which transporter plates may be used and, in addition, may be used for the operation of any vehicle owned or controlled by the registrant and held for sale or demonstration, except a vehicle rented to another, a vehicle used to transport passengers for hire, a vehicle commonly called a "tow truck" or "wrecker" and used by the dealer for such purposes, a vehicle equipped for the purpose of towing or pushing disabled or nonoperated vehicles or a commercial or suburban type vehicle used by the dealer for commercial purposes other than directly affecting the sale or demonstration of that particular vehicle. In addition, dealer, manufacturer, or transporter number plates may be used for any non-self-propelled device used for the transport of modular homes. Except as provided in section four hundred sixteen of this article, manufacturer number plates issued under this section may be used for all purposes for which transporter plates may be used and, in addition, may be used for the operation of any vehicle owned or controlled by the registrant and held for demonstration, except a vehicle rented to another, a vehicle used to transport passengers for hire, a vehicle commonly called a "tow truck" or "wrecker" and used by the manufacturer for such purposes, a vehicle equipped for the purpose of towing or pushing disabled or nonoperated vehicles or a commercial or suburban type vehicle used by the manufacturer for commercial purposes other than directly affecting the demonstration of that particular vehicle.

Dealer, manufacturer, or transporter number plates issued upon renewal of a dealer, manufacturer, or transporter registration may be used during the thirty day period immediately preceding the expiration date of such registration, including such expiration date.

9. Suspension, revocation and refusal to issue or to renew a registration. The commissioner or any person deputized by him may deny the application of any person for registration under this section and suspend or revoke a registration under this section or refuse to issue a renewal thereof if he or such deputy determines that such applicant or registrant or any officer, director, stockholder, or partner, or any other person directly or indirectly interested in the business:

a. Has made a material false statement in his application; or

b. Has used or permitted the use of number plates contrary to law; or

c. Has been guilty of fraud or fraudulent practices, or has practiced dishonest or misleading advertising; or

d. Has failed to comply with any of the rules and regulations of the commissioner for the enforcement of this article or with any provision of this chapter or article thirty-five-B of the general business law applicable thereto; or

e. Has wilfully violated any provisions of the motor vehicle retail instalment sales act, the motor vehicle retail leasing act or section one hundred ninety-eight-c of the general business law; or

f. Does not have a place of business within the meaning of this section; or

g. Has been convicted of any crime involving dishonesty or deceit; or

h. Was the former holder, or was an officer, director, stockholder, or partner, in a corporation or partnership which was the former holder of a dealer's registration, which was suspended or revoked by the commissioner.

9-a. Hearings; temporary suspension. (a) No registration shall be suspended or revoked, or renewal refused, except upon notice to the

registrant and after an opportunity to be heard. Provided however, upon a written notice of temporary suspension delivered by certified mail to the registrant, a registration may be temporarily suspended pending a hearing. Any such notice of temporary suspension shall provide that the suspension is effective seventy-two hours after mailing of such notice and shall provide that a hearing be scheduled within ten days after the effective date of the temporary suspension.

(b) The applicant may be heard in person or by counsel. The hearing shall be at such time and place as the commissioner shall prescribe. The commissioner or the commissioner's designee may inspect the pertinent books, records, letters and contracts of a registrant relating to any written complaint or charge against such registrant. The commissioner or the commissioner's designee shall have the power to subpoena and bring before a hearing officer any person in this state, and administer an oath to and take testimony of any person or cause the person's deposition to be taken. A subpoena issued under this section shall be regulated by the civil practice law and rules.

10. Suspension and revocation of number plates. The commissioner may suspend or revoke number plates issued pursuant to subdivision four of this section, if he determines that the registrant to whom these plates have been issued has used or permitted the use of such number plates contrary to law or to the regulations of the commissioner with respect to the use thereof. The registrant to whom such number plates have been issued shall have an opportunity to be heard, and the provisions of subdivision nine of this section shall apply to hearings held under this subdivision, and to review of determinations made by the commissioner hereunder.

11. Following the suspension or revocation of the certificate of registration of a dealer, manufacturer, or transporter or number plates, pursuant to this section, the failure of the holder or any other person possessing the certificate of registration, number plates or certificates of sale issued to a dealer pursuant to the regulations of the commissioner, to deliver the same to the suspending or revoking officer, peace officer acting pursuant to his or her special duties, police officer directed by the commissioner to secure possession

thereof, or agent of the commissioner, displaying authorization to act in such capacity along with a certified copy of the order revoking or suspending such registration or number plates, shall be a misdemeanor.

If any person shall fail to deliver a certificate of registration, number plates or certificates of sale as provided herein, the commissioner shall forthwith direct any peace officer acting pursuant to his or her special duties or police officer to secure possession thereof and to return the same to the commissioner.

12. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending the certificate of registration of a registrant in accordance with the provisions of this article, may in any one proceeding by order require the registrant to pay to the people of this state a penalty for a first violation a sum not exceeding one thousand dollars for each violation found to have been committed; and for a second or subsequent violation not arising out of the same incident both of which were committed within a period of thirty months, a sum of not more than one thousand five hundred dollars for each violation found to have been committed; provided, however, the penalty for each and any violation of paragraph c of subdivision nine of this section found to have been committed shall be no less than three hundred and fifty dollars and no more than one thousand five hundred dollars, except that if a finding of financial loss has been made pursuant to subdivision fourteen of this section, the amount of such penalty may be increased by the amount of financial loss so found, and upon the failure of such registrant to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the certificate of registration of such registrant or may suspend the same for such period as he may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner.

13. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

14. Restitution; assessment. a. Upon a determination that a registrant has done or failed to do any act for which suspension of the registrant's registration or a civil penalty against the registrant could be imposed, the person making such determination may make a finding of financial loss to any complainant or complainants resulting from the actions of the registrant. The person making such finding may provide that if the registrant makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted in lieu of any suspension or civil penalty, or a specified portion thereof imposed upon the registrant. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the registrant, and (ii) is not a party to any litigation which is pending or which has gone to judgment in relation to the same matter in any civil court.

b. The amount of financial loss which may be found and proposed as restitution shall be limited to an amount necessary to compensate the complainant or complainants for actual losses caused by the registrant's improper activity. Neither punitive nor incidental damages may be included in the finding of financial loss.

c. If payment of restitution to the complainant is authorized in lieu of all or a portion of a suspension or civil penalty, in order for the registrant to exercise the option to make such payment, such payment must be made by means of a certified check or money order payable to the

complainant or complainants delivered to an office of the department as directed by the commissioner or his agent within thirty days of the date of notice of suspension and/or civil penalty. Upon receipt of such certified check or money order, the department shall forward the same to the complainant or complainants. In the event that the registrant should fail to make payment for restitution within such thirty days, but, at a later time, pays such civil penalty, the department shall deduct from such civil penalty the amount assessed for restitution, and shall mail a check for such amount to the complainant or complainants.

d. If payment of restitution may be substituted in lieu of a civil penalty or portion of a civil penalty, and the registrant does not exercise the option to make such payment, the civil penalty becomes due as provided in subdivision twelve of this section and the provisions of that subdivision and subdivision thirteen of this section relating to suspension of registration and recovery of civil penalties shall apply.

e. Any payment made in compliance with such a finding of financial loss shall not preclude any civil action which may be brought by either the complainant or registrant, and any such finding may be considered but shall not be binding upon any court before which any such action is brought.

15. Miscellaneous provisions. The commissioner may, in his or her discretion, limit the number of sets of number plates which shall be issued to any registrant. The provisions of subdivision three of section four hundred one of this title with respect to the fee for lost, mutilated or destroyed certificates and number plates shall apply to certificates and number plates issued under this section.

In the event of the loss or theft of any dealer, manufacturer, or transporter number plate or set of such number plates whether with or without a date tag or tags, or any date tag or set of date tags, the dealer or manufacturer must immediately notify the police of such fact and in the event of loss, theft, mutilation or destruction of any such items the dealer or manufacturer must immediately file a statement and proof of the facts as the commissioner shall require. The provisions of

section four hundred two and four hundred eleven of this title with respect to the care and display of number plates shall apply to number plates issued under this section. Registration under this section shall be upon the condition that the registrant shall conform to such reasonable requirements as shall be prescribed by the commissioner.

The commissioner may, in his or her discretion, require a registrant to maintain a record in a prescribed form of all vehicles received or disposed of by him or her, which records shall be open at all times for inspection by the commissioner, his or her representatives and any peace officer, acting pursuant to his or her special duties, or police officer.

If registration under this section shall be issued in the names of two or more persons as partners and a change occurs in the membership of such partnership, the registration shall not expire so long as any one of the persons named in such registration is a member of the partnership or carries on the business of the partnership as surviving member of the partnership. However, when any such change occurs and the registration does not expire, the partners or surviving member after such change shall forthwith file with the commissioner a statement regarding such partnership in such form and giving such information as the commissioner shall require, and the commissioner shall issue a new certificate of registration.

16. Unregistered operation; operation while suspended or revoked; procedures and penalties. a. The commissioner or any person deputized by him shall hear and determine any allegation that a person has operated as a dealer without being registered as required by subdivision three of this section or while registration is suspended or revoked. Upon a determination that a person has so operated, the commissioner or person deputized by him shall assess civil penalties as provided in paragraphs b and c of this subdivision.

b. Except as provided in paragraph c of this subdivision, any person who operates as a dealer without being registered shall be required to pay to the people of this state a civil penalty in the sum of one

thousand dollars. However, any such person against whom such penalty has been assessed may avoid all but five hundred dollars of such penalty by obtaining a registration as required by this article, provided that application for such registration is made not more than ten days after the imposition of such penalty.

c. (i) Any person who operates as a dealer while his registration is revoked or suspended, shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided.

(ii) Any person who operates as a dealer without being registered as required by subdivision three of this section who has previously had a civil penalty assessed for unregistered operation shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Any person who operates as a dealer without being registered as required by subdivision three of this section who has had two previous civil penalties assessed for unregistered operation not arising from the same incident all of which were committed within a period of thirty months shall pay to the people of this state a civil penalty in the sum of four thousand ten dollars. Such civil penalties may not be avoided.

(iii) No person who operates as a dealer without being registered as required by subdivision three of this section or while his or her registration is revoked or suspended shall park a motor vehicle, which he or she owns or controls and holds for sale or demonstration, upon a public highway of this state without first being registered in accordance with the provisions of section four hundred one of this chapter. Any such person shall, in addition to any penalties imposed pursuant to paragraph b of this subdivision or subparagraph (ii) of this paragraph, be required to pay to the people of this state an additional civil penalty of three hundred dollars for each motor vehicle owned or controlled and held for sale or demonstration by such person which is parked upon the public highways of this state without first being registered in accordance with the provisions of section four hundred one of this chapter.

d. The commissioner, or any person deputized by him, in addition to imposing a civil penalty for unregistered operation as a dealer, may, in

any one proceeding, make a determination that the unregistered dealer has caused a financial loss to a complainant or complainants and may increase the civil penalty by the amount of financial loss. The person making such finding may provide that if the unregistered dealer makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted for the increase in the civil penalty caused by the finding of financial loss. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the unregistered dealer, and (ii) is not a party to any litigation which is pending or in which judgment has been entered in any civil action in any court of competent jurisdiction.

e. Civil penalties assessed under this section shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

f. No allegation of unregistered operation as a dealer shall be heard or determined unless notice of such allegation has been mailed to such person within two years after the date of the alleged unregistered operation.

17. Improper display of signs. a. The holder of a dealer registration shall remove or cause to be removed any sign which contains the registration number of the dealer which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the registration is revoked or suspended or

the dealer is out of business. If the registration is only suspended, the holder may cover up the sign instead of removing it.

b. No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official dealer is operating unless a dealer registration has been issued to that person and is currently valid.

18. Rights of dealers. The rights of all new motor vehicle dealers under this article may be exercised from any location or locations which are from time to time approved by their franchisors and the commissioner as prescribed in this article. The rights of all qualified dealers under this article may be exercised from any location or locations from which they operate from time to time; provided, however, that no qualified dealer shall operate from more than two locations within the four counties of Kings, Queens, Nassau, and Suffolk; and provided further that no qualified dealer shall operate from more than one location in any one county. The total number of locations from which a qualified dealer may operate shall not exceed that number of locations operated by such qualified dealer on December thirty-first, nineteen hundred ninety-eight. It shall be unlawful for any person to interfere with the rights of, or discriminate against, any new motor vehicle dealer or any qualified dealer under this article. The commissioner shall penalize those persons who violate the provisions of this section as enacted by chapter four hundred fifty-one of the laws of nineteen hundred ninety-nine and the chapter of the laws of two thousand which amended this subdivision as provided by this section. Nothing contained in this article shall be construed to prohibit a new motor vehicle dealer, a qualified dealer, or a dealer, respectively, from utilizing the internet to engage in such activities as each are respectively permitted under this article and under other applicable laws, or affect where a new motor vehicle dealer or a qualified dealer may deliver a new motor vehicle.

19. Disclosures by qualified dealers; penalties. a. Every qualified dealer who advertises in newspapers, magazines, or by direct mail the

availability of new motor vehicles for sale shall clearly disclose that such qualified dealer is not a franchised new motor vehicle dealer.

b. Every qualified dealer shall prominently and conspicuously post a sign, in such a manner that it is likely to be noticeable to anyone entering the premises, which sign shall clearly state: "(name of qualified dealer) is not a franchised dealership and does not represent a manufacturer. We are not authorized to perform recall or original factory warranty work."

c. Every contract for the sale of a new motor vehicle entered into by a qualified dealer and the purchaser shall contain the following statement: "(name of qualified dealer) is not a franchised dealership and does not represent a manufacturer. We are not authorized to perform recall or original factory warranty work."

d. A qualified dealer who fails to comply with the requirements of this subdivision, shall be subject to the penalties provided by this section. Further, a person who has purchased a new motor vehicle from a qualified dealer pursuant to a contract which does not contain the disclosure required under paragraph c of this subdivision, shall be entitled to rescind the sale and obtain full restitution of any amounts paid, plus reasonable court costs and attorneys fees, within four months of the date of purchase.

20. Restrictions on transferability and operation of certain qualified dealerships. a. A qualified dealer may sell, devise, assign, convey or otherwise transfer any or all of its assets, including without limitation all rights to conduct the activities of a qualified dealer hereunder and further, the owner of an equity interest in a qualified dealership may sell, devise, assign, convey or otherwise transfer any or all of its equity interest in such qualified dealership, subject to the conditions set forth in this subdivision. To the extent that such qualified dealer conducts such activities at more than one location as permitted under this article, then such qualified dealer may transfer such rights on a location by location basis; provided, however, that such a transferee shall acquire no greater rights to relocate than those

of his or her transferor, and provided further below, that such transferee shall remain subject to the provisions of this subdivision exactly as they applied to his or her transferor.

b. A transferee who acquires the assets and/or an equity interest in a qualified dealer as defined in subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section and is the parent, spouse, child or sibling of an individual who was an equity holder of such qualified dealer may conduct activities as specified pursuant to this section without restriction.

c. A transferee who acquires substantially all of the assets and/or a controlling equity interest in a qualified dealer as defined in subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section who is not the parent, spouse, child or sibling of an individual who was an equity holder of such qualified dealer may conduct activities as specified pursuant to this section; provided, however, that such transferee, in any calendar year, shall not be permitted to sell more than one hundred ten percent of the number of new motor vehicles sold by the transferor or qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights.

d. A transferee who acquires ten per cent or more of an equity interest after August 31, 1999 in a qualified dealer as defined in subparagraph (ii), (iii), or (iv) of paragragh g of subdivision one of this section and is a publicly traded corporation may conduct activities as specified pursuant to this section; provided, however, that such transferee, in any calendar year, shall not be permitted to sell more than one hundred ten percent of the number of new motor vehicles sold by the transferor or qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights.

e. Each transferee who acquires substantially all of the assets and/or a controlling equity interest in a qualified dealer from a transferee as defined in paragraph b, c or d of this subdivision shall not be

permitted to sell a number of new motor vehicles in any calendar year in excess of the number of new motor vehicles sold by such transferor qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights.

f. The rights of a qualified dealer under subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section are also deemed transferred for purposes hereof in the event that, after August thirty-first, nineteen hundred ninety-nine, (i) the controlling equity interest of such qualified dealer is transferred (in any one or series of transactions) to any person or persons, other than the parent, spouse, child or sibling of an individual who is an equity holder of such qualified dealer, or (ii) there occurs any merger, combination or consolidation of, with or into the business entity which constitutes such qualified dealer.

g. Nothing contained herein shall (i) prohibit a qualified dealer or the parent, spouse, child or sibling who is the equity holder of such qualified dealer from forming a corporation or limited liability company to operate and wholly own the qualified dealer; (ii) restrict the ability of a qualified dealer to transfer a controlling equity interest to a corporation or a limited liability company operated and wholly owned by an individual who is an equity holder of such qualified dealer; or (iii) restrict the ability of a qualified dealer to transfer an equity interest in the stock and/or assets of a qualified dealer to a full-time employee of such qualified dealer.

21. New motor vehicle etching kits. Every new motor vehicle dealer and every qualified dealer shall be required to stock etching kits that are capable of etching a traceable serial number onto the catalytic converter of a new motor vehicle that can be clearly seen and quickly linked back to the vehicle. Such etching kits shall be offered by every new motor vehicle dealer and qualified dealer to any person purchasing a new motor vehicle, at no more than the cost of such etching kit to such dealer.

22. Compliance. All dealers and automobile broker businesses

registered under subdivisions three and three-a of this section shall certify and attest to compliance with sections three hundred ninety-nine-cc, as added by chapter 655 of the laws of 2005, three hundred ninety-nine-dd, as added by chapter 487 of the laws of 2006, three hundred ninety-nine-ddd, three hundred ninety-nine-h, three hundred ninety-nine-oo, three hundred ninety-nine-p, three hundred ninety-nine-pp, eight hundred ninety-nine-bb of the general business law, and part three hundred fourteen of title sixteen of the code of federal regulations as applicable.

23. Automobile broker record requirements. (a) For each completed transaction and within three business days of consummation thereof, automobile brokers shall maintain a permanent paper file record that clearly evidences and records the make, model, year, color and vehicle identification number of all previously unregistered motor vehicles for which such broker has provided a service of purchasing, arranging, assisting, facilitating or effecting the purchase or lease of such motor vehicle. Such records shall be maintained for a six-year period after consummation of the transaction. Such records shall also include the name and address of the purchaser or lessee of such motor vehicle, the date of sale or commencement of lease with respect to such motor vehicle and the name and address of the dealer from which the motor vehicle was purchased or leased.

(b) The records maintained by the automobile broker businesses shall include a copy of the dealer rate sheets received by the automobile broker from the dealers that were relied upon by the automobile broker in connection with such transaction.

(c) Such records shall be open for inspection by the commissioner, or his or her agent, during reasonable business hours.

(d) As an alternative to paper file records, an automobile broker may use a computer and appropriate software to maintain the records required to be kept by this section, provided all information required by paragraphs (a) and (b) of this subdivision are duly recorded and maintained in accordance with this subdivision.

24. Maintenance records. For each sale or lease of a motor vehicle that involves an automobile broker business, the dealer must obtain

evidence of the automobile broker business' registration and the broker's registration number and maintain such records in the deal jacket for each transaction which also shall contain the purchase order, copies of the title and registration documents, the bill of sale and the retail installment sale contract required under article ten of the personal property law or the retail lease agreement required under article nine-A of the personal property law.

25. Broker compensation. No dealer may offer or pay an automobile broker business any fee, or commission, other than compensation disclosed pursuant to section seven hundred thirty-eight or seven hundred forty-one-b of the general business law or section three hundred two or three hundred thirty-seven of the personal property law; provided, however, that the automobile broker business may not accept any such fee or commission from the dealer if the broker has or will accept payment from the buyer or lessee of the automobile.

§ 415-a. Vehicle dismantlers and other persons engaged in the transfer or disposal of junk and salvage vehicles. 1. Definition and registration of vehicle dismantlers. A vehicle dismantler is any person who is engaged in the business of acquiring motor vehicles or trailers for the purpose of dismantling the same for parts or reselling such vehicles as scrap. No person shall engage in the business of or operate as a vehicle dismantler unless there shall have been issued to him a registration in accordance with the provisions of this section. A violation of this subdivision shall be a class E felony.

1-a. Definition and registration of salvage pools. A salvage pool is any person, acting on behalf of the vehicle owner or an insurance company, who sells, offers for sale or solicits bids for the sale of junk or salvage vehicles or major component parts of such vehicles, or displays or permits the display of such vehicles or parts upon premises owned or controlled by him, but who does not dismantle vehicles. No person shall engage in business as a salvage pool unless there shall have been issued to him a registration in accordance with the provisions of this section. A violation of this subdivision shall be a class A

misdemeanor.

1-b. Definition and registration of mobile car crushers. A mobile car crusher is any person who engages in the business of operating a transportable car crusher, but who does not acquire ownership of the vehicles which he crushes. No person shall engage in the business of or operate as a mobile car crusher unless there shall have been issued to him a registration in accordance with the provisions of this section. A violation of this subdivision shall be a class A misdemeanor.

1-c. Itinerant vehicle collectors. An itinerant vehicle collector is any person who is engaged in the business of acquiring non-operable vehicles and who sells such vehicles or major component parts thereof to a vehicle dismantler or scrap processor. No person shall engage in business as an itinerant vehicle collector unless there shall have been issued to him a registration in accordance with the provisions of this section. A violation of this subdivision shall be a class A misdemeanor.

2. Application for registration. An application for registration as a vehicle dismantler, salvage pool, mobile car crusher or itinerant vehicle collector shall be made to the commissioner on a form prescribed by him which shall contain the name and address of the applicant and the names and addresses of all persons having a financial interest in the business. Such application shall contain a listing of all felony convictions and all other convictions relating to the illegal sale or possession of a motor vehicle or motor vehicle parts, and a listing of all arrests for any such violations by the applicant and any other person required to be named in such application. On and after January first, nineteen hundred ninety-two, such application for or renewal of registration as a vehicle dismantler shall, in addition to the foregoing, contain a statement indicating that the applicant has purchased approved motor vehicle refrigerant recycling equipment or refrigerant recapturing equipment in accordance with section 38-0107 of the environmental conservation law. Applicants who are vehicle dismantlers must submit along with their application either a manufacturer's certificate issued upon purchase or an invoice with proof of payment. All such documents shall contain the name and address of the

repair shop and manufacturer, the date purchased, and the serial numbers of the units acquired. The application shall also contain the business address of the applicant and may contain any other information required by the commissioner.

3. Fees. The annual fee for registration as a vehicle dismantler, salvage pool, mobile car crusher or itinerant vehicle collector shall be fifty dollars. Upon approval of an application, an appropriate registration shall be issued for a period of time determined by the commissioner and if issued for a period of more or less than one year, the fee shall be prorated on a monthly basis. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund.

4. Requirements for registration. (a) Except as otherwise provided herein, no registration shall be issued or renewed unless the applicant has a permanent place of business at which the activity requiring registration is performed which conforms to section one hundred thirty-six of the general municipal law as such section applies and to all local laws or ordinances and the applicant and all persons having a financial interest in the business have been determined by the commissioner to be fit persons to engage in such business. However, the commissioner may issue a temporary registration pending final investigation of an application.

(b) The provisions of this subdivision requiring a place of business at which the activity requiring registration is performed shall not apply to a mobile car crusher nor to an itinerant vehicle collector. However, the mobile car crusher or itinerant vehicle collector must otherwise comply with all applicable local licensing laws or ordinances.

(c) Notwithstanding the provisions of paragraph (a) of this subdivision, the commissioner may issue a registration to an applicant for registration as a vehicle dismantler or salvage pool to a person who may not comply with local laws relating to zoning provided that the applicant has engaged in business at that location as a vehicle dismantler since September first, nineteen hundred seventy-three. However, the issuance of such registration shall not be a defense with respect to any action brought with respect to violation of any such

local law.

5. Records and identification. (a) Any records required by this section shall apply only to vehicles or parts of vehicles for which a certificate of title has been issued by the commissioner or which would be eligible to have such a certificate of title issued. Every person required to be registered pursuant to this section shall maintain a record of all motor vehicles, trailers, and major component parts thereof, coming into his or her possession together with a record of the disposition of any such motor vehicle, trailer or part thereof and the date such motor vehicle, trailer or part thereof is received and shall maintain proof of ownership for any motor vehicle, trailer or major component part thereof while in his or her possession. For the purposes of this article an inflatable restraint system shall be a major component part and a catalytic converter shall be a major component part. Such records shall be maintained in a manner and form prescribed by the commissioner. The commissioner may, by regulation, exempt vehicles or major component parts of vehicles from all or a portion of the record keeping requirements based upon the age of the vehicle if the commissioner deems that such record keeping requirements would not further the purposes of the motor vehicle theft prevention program established by section two hundred twenty-three of this chapter. Upon request of an agent of the commissioner or of any police officer and during his or her regular and usual business hours, a vehicle dismantler shall produce such records and permit said agent or police officer to examine them and any vehicles or parts of vehicles which are subject to the record keeping requirements of this section and which are on the premises. In addition, the commissioner shall require every vehicle dismantler to produce, every sixty days, all records regarding the number of catalytic converters they took in within such sixty-day period subject to the record keeping requirements of this section. Upon request of any agent of the commissioner and during his or her regular and usual business hours, a salvage pool, mobile car crusher or itinerant vehicle collector shall produce such records and permit said agent or police officer to examine them and any vehicles or parts of vehicles which are subject to the record keeping requirements of this section and which are on the premises. The failure to produce such records or to permit such

inspection on the part of any person required to be registered pursuant to this section as required by this paragraph shall be a class A misdemeanor. If a vehicle dismantler has gained money or property by failing to produce records of the number of catalytic converters they take in as required by the commissioner pursuant to this paragraph, the court may order such defendant to pay an amount, fixed by the court, not to exceed double the amount of such defendant's gain from the commission of such offense.

(b) Every vehicle dismantler and salvage pool shall display at his place of business at least one sign upon which his registration number and any other information required by the commissioner is affixed in a manner prescribed by the commissioner and further shall affix his registration number on all advertising, business cards, and vehicles used by him in connection with his business. The commissioner is hereby empowered to require, by regulation, that vehicle dismantlers and salvage pools mark, stamp or tag major component parts of vehicles in their possession in a manner prescribed by the commissioner so as to enable the part so marked to be identified as having come from a particular vehicle and from a particular vehicle dismantler and salvage pool. A violation of this paragraph shall be a class A misdemeanor.

(c) For the purposes of this article, the term "catalytic converter" shall mean a device installed in the exhaust system of an internal combustion engine that utilizes catalytic action to oxidize hydrocarbon and carbon monoxide emissions to carbon dioxide and water.

5-a. Improper display of signs. (a) The holder of a vehicle dismantler or salvage pool registration shall remove or cause to be removed any sign which contains the license number of the facility which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the registration is revoked or suspended or the vehicle dismantler or salvage pool is out of business. If the registration is only suspended, the holder may cover up the sign instead of removing it.

(b) No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official vehicle dismantler or salvage pool is operating unless a dismantler or salvage pool registration has

been issued to that person and is currently valid.

6. Suspension, revocation and refusal to renew a registration; civil penalty. (a) A registration may be suspended or revoked, or renewal of a registration refused upon a conviction of any provision of the penal law relating to motor vehicle theft, illegal possession of a stolen vehicle or illegal possession of stolen motor vehicle parts, or after the registrant has had an opportunity to be heard upon any change of status of the registrant which would have resulted in refusal to issue a registration, any false statement in an application for a registration, an egregious and willful violation of title twenty-three of article twenty-seven of the environmental conservation law, any violation of subdivision five of this section or regulations promulgated by the commissioner with respect to this section, or any violation of title ten of this chapter.

(b) Civil penalty. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending the registration of a registrant in accordance with the provisions of this article, may in any one proceeding by order require the registrant to pay to the people of this state a civil penalty in a sum not exceeding one thousand dollars for each violation and upon the failure of such registrant to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the registration of such registrant or may suspend the same for such period as he may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner.

(c) In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office

of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

7. Registration as a dealer and as a vehicle dismantler or salvage pool. A person may be registered as a dealer under section four hundred fifteen of this chapter as well as a vehicle dismantler or a salvage pool under this section. However, any such person must obtain a separate registration for each activity and must maintain separate records for each activity.

8. Vehicle rebuilders. (a) A vehicle rebuilder is any person engaged in the business of acquiring damaged vehicles for the purpose of repairing and reselling such vehicles. In order to engage in such business, a person must be registered as a vehicle dismantler pursuant to this section or as a dealer pursuant to section four hundred fifteen of this chapter.

(b) A vehicle rebuilder shall maintain a record of all vehicles or major component parts thereof coming into his possession for the purpose of rebuilding and all major component parts used in connection with such rebuilding in a manner prescribed by the commissioner. Upon request of an agent of the commissioner or any police officer during his regular and usual business hours, a vehicle rebuilder shall produce such records and permit said agent or police officer to examine them and any vehicles or parts of vehicles which are subject to the record keeping requirements of this section and which are on the premises. The failure to produce such records or to permit such records or to permit such inspection as required by this paragraph shall be a class A misdemeanor.

9. Scrap processor. (a) A scrap processor is any person required to be licensed under article six-C of the general business law who purchases material which is or may have been a vehicle or vehicle part for processing into a form other than a vehicle or vehicle part, but who, except as otherwise provided by regulation of the commissioner, does not sell any such material as a motor vehicle, a trailer or a major component part thereof. No person shall engage in business or operate as a scrap processor as defined in this paragraph unless he has given

notice to the commissioner that he is a scrap processor and that he has complied with article six-C of the general business law, and he has been certified by the commissioner as a scrap processor. A violation of this paragraph shall be a class A misdemeanor.

(b) A scrap processor shall maintain a record of vehicles and a record of major component parts by weight coming into his possession thereof in a manner prescribed by the commissioner. This paragraph shall not apply to any major component part included in a mixed load. Upon request of an agent of the commissioner or any police officer or during his regular and usual business hours, a scrap processor shall produce such records and permit such agent or police officer to inspect them and to inspect any vehicles or major component parts of vehicles at the time of the delivery of such vehicles or parts to him. The failure to produce such records or to permit such inspection as required by this paragraph shall be a class A misdemeanor.

10. Scrap collectors and repair shops. (a) A scrap collector is any person, other than a governmental agency, whose primary business is the collection of miscellaneous scrap for disposal, who may as an incident of such business collect vehicular parts as scrap. No person shall engage in the business or operate as a scrap collector as defined in this paragraph unless he has given notice to the commissioner that he is a scrap collector and has been certified as a scrap collector by the commissioner. A violation of this provision shall be a class A misdemeanor. No person shall be certified as a scrap collector eligible to do business within a city having a population of one million or more, or any county contiguous to such city, unless such person complies with all local requirements applicable to such business.

(b) If required by regulation of the commissioner, a scrap collector shall keep records of his acquisition and disposition of vehicular scrap in a manner prescribed by the commissioner. Upon request of an agent of the commissioner or any police officer, a scrap collector shall produce such records as may be required to be kept and permit said agent or police officer to inspect them during usual business hours or while business is being conducted. The failure to produce such records as required by this paragraph shall be a class A misdemeanor.

(c) A repair shop registered pursuant to article twelve-A of this

chapter which disposes of vehicular scrap to a certified scrap processor shall apply to the commissioner for certification to carry out this disposal. The repair shop shall include in the application for certification the names and addresses of those scrap processors with whom it arranges for the disposal of its scrap. Thereafter the repair shop shall give notice to the commissioner within thirty days of any change in the scrap processors with whom it deals. The failure to comply with this paragraph or to make fraudulent statements regarding the scrap processors with which a repair shop arranges for the disposal of vehicular scrap shall be a class A misdemeanor.

11. Out-of-state businesses. A person doing business in this state who does not have a place of business in this state, but has a place of business or engages in such business in another state or province of Canada and who would be required to be registered or certified pursuant to this section if it were in this state, shall apply to the commissioner for an identification number in a manner prescribed by the commissioner. Such identification number shall be issued provided that such person complies with all the laws and regulations of the jurisdiction in which he has his principal place of business or engages in such business applicable to such business.

12. Identification of certified persons. (a) Every person who is certified or who has been issued an identification number by the commissioner shall display such certification or identification number upon any vehicle used by him for the business of transporting vehicles or parts of vehicles, in accordance with regulations prescribed by the commissioner.

(b) It shall be a class A misdemeanor for any person required to be registered or certified pursuant to the provisions of this section to transport a vehicle or major component parts out of New York state without having and displaying his registration or certification number as provided for in this section.

13. Suspension or revocation of identification number or certification. An identification number and/or certification issued pursuant to subdivision eight, nine, ten or eleven of this section may

be suspended or revoked upon conviction of any provision of the penal law relating to motor vehicle theft, illegal possession of a stolen vehicle or illegal possession of stolen motor vehicle parts. The commissioner may also revoke or suspend registration or certification, after an appropriate hearing where the holder of the registration or certification has had an opportunity to be heard, upon a finding of: (a) that there has been a change to the holder's status which would have resulted in a refusal to issue in the first instance, or (b) that the issuance was based upon a false statement by the holder, or (c) that there was a violation of the record keeping requirements, or (d) that there was a violation of the regulations promulgated by the commissioner pursuant to this section, or (e) that there was a violation of title X of this chapter.

14. Restrictions on scrap processors. A certified scrap processor shall not purchase any material which may have been a vehicle or a major component part of a vehicle, if recognizable as such, from any person other than a dealer registered pursuant to section four hundred fifteen of this chapter, an insurance company, a governmental agency, a person in whose name a certificate of title or other ownership document has been issued for such vehicle or a person registered or certified or issued an identification number pursuant to this section. A violation of this subdivision shall be a class A misdemeanor.

15. Regulations. The commissioner shall prescribe such rules and regulations as he shall deem necessary to carry out the provisions of this section.

§ 415-b. Local regulation of vehicle dismantlers in cities having a population in excess of one million. The legislative body of any city having a population in excess of one million may, by local law:

1. provide for the licensing of vehicle dismantlers as defined in subdivision one of section four hundred fifteen-a of this chapter by the department of consumer affairs of such city, and further provide that no person may act as a vehicle dismantler in such city without having

obtained a license from such department. The provisions of such local law shall not be inconsistent with the provisions of this article or any rule or regulation promulgated thereunder; and

2. adopt any other provisions relating to the operation of the business of a vehicle dismantler which are neither duplicative of, nor inconsistent with, any provision of this article or any rule or regulation promulgated thereunder.

§ 415-c. Sale of salvaged inflatable restraint systems; restrictions. 1. On and after January first, nineteen hundred ninety-seven, prior to offering any salvaged inflatable restraint system for sale such salvaged inflatable restraint system part indentification number and the vehicle identification number of the vehicle from which the salvaged inflatable restraint system was taken shall be referred to a nationally recognized theft index bureau approved by the commissioner, in consultation with the superintendent of financial services, for the purposes of determining prior to sale that neither the salvaged inflatable restraint system nor the motor vehicle were stolen, as determined at the time of inquiry. The sales invoice shall state the date and the result of the inquiry to such theft index bureau.

2. On and after March first, nineteen hundred ninety-nine, prior to offering any salvaged inflatable restraint system for sale such salvaged inflatable restraint system shall be certified according to standards established by a nationally recognized testing, engineering and research body approved by the commissioner in consultation with the superintendent of financial services.

§ 416. Limited use of dealer's, manufacturer's, and transporter's number plates by vendee or lessee. Upon the sale or lease of a motor vehicle or motorcycle the vendee or lessee shall be allowed to operate the same upon the public highways for the period of five days after taking possession thereof, without carrying number plates issued upon a registration under section four hundred one, if a motor vehicle, or

under section four hundred ten, if a motorcycle, provided the motor vehicle or motorcycle shall have attached thereto and displayed thereon, in the manner therein provided, a set of dealer's, manufacturer's, or transporter's number plates issued to the vendor or lessor under section four hundred fifteen, and if a proper application for registration and number plates for such vehicle, under the provisions of section four hundred one or four hundred ten of this title, as the case may be, shall have been mailed or presented to the commissioner, or agent, accompanied with the payment of the required fee within twenty-four hours after he or she has taken possession thereof. If the motor vehicle or motorcycle is to be registered in a jurisdiction other than the state of New York, the requirement for filing or presenting such application shall not apply.

No person shall operate or drive upon the public highways any motor vehicle or motorcycle on which is fastened or displayed any such dealer's, manufacturer's, or transporter's number plates after a sale or lease of such vehicle by the dealer or lessor, except in compliance with the foregoing provisions.

A vendee or lessee to whom number plates are delivered or by whom they are held under the provisions of this section shall return the same, and the accompanying registration certificate, to the dealer or lessor before the expiration of six days after he or she took possession of the motor vehicle or motorcycle purchased or leased. If number plates so delivered or held, or such certificate, are not returned within the time above limited, the dealer or lessor shall immediately notify the commissioner of that fact by mail, describing the plates according to the general and distinctive numbers and characters thereon.

The provisions of this section shall apply also to the sale or lease of a trailer and to the use by the vendee or lessee of dealer's, manufacturer's, or transporter's number plates on the trailer sold or leased, and for the purpose of applying such provisions a trailer shall be deemed to be a motor vehicle.

§ 416-a. Bumper quality label requirements. 1. It shall be unlawful after January first, nineteen hundred ninety-three for any manufacturer to sell or lease or to offer to sell or lease in this state for the purpose of registration in this state any new passenger type motor vehicle manufactured or assembled after said date designated as a nineteen hundred ninety-three or subsequent model, except omnibus and multipurpose passenger vehicles, unless such vehicle has affixed thereto a bumper quality label, placed conspicuously upon that window or windshield where the manufacturer's suggested retail price sticker has been posted. The commissioner shall determine the size, type legibility and placement of such label. Such label shall include the following information: "This vehicle is equipped with a front bumper that has been tested at an impact speed of (specified by vehicle manufacturer) _____ miles per hour and a rear bumper that has been tested at an impact speed of (specified by the vehicle manufacturer) _____ miles per hour, and has sustained no damage to the vehicle's body and minimal damage to the bumper and attachment hardware. Minimal damage to the bumper means damage that can be repaired with the use of a common repair materials and without replacing any parts. The stronger the bumper, the less likely the car will require repair after a low-speed collision."

2. The impact speed required to be specified in the notice pursuant to subdivision one of this section is the maximum speed of impact upon the bumper of the vehicle at which the vehicle sustains no damage to the body and safety systems and only minimal damage to the bumper when subjected to the fixed barrier and pendulum impact tests, and when subjected to the corner impact test at not less than sixty percent of that maximum speed, conducted pursuant to the practices, procedures and regulations promulgated under the concurrent authority of the Federal Motor Vehicle Information and Cost Savings Act (Cost Savings Act)(15 U.S.C. 1901 et seq.) and the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381, et seq.)

3. For purposes of this section, "no damage" means that, when a passenger vehicle is subjected to applicable impact testing practices and procedures, the exterior surfaces shall have no separations of surface materials, paint, polymeric coatings or other covering materials

from the surface to which they are bonded, and no permanent deviations from their original contours thirty minutes after completion of each pendulum and barrier impact test, except where such damage occurs to the bumper face bar and the components and associated fasteners that directly attach the bumper face bar to the chassis frame. There shall be no breakage or release of fasteners or joints except as described above.

4. Any manufacturer who violates subdivision one of this section, without just cause, shall be subject to a civil fine of not more than fifty dollars per vehicle with respect to which there has been a violation of this section. Civil penalties so assessed may not be deducted as an expense from any tax liability due to any local or state tax jurisdiction.

§ 416-b. Vehicle data recording devices. 1. A manufacturer of a new motor vehicle sold or leased in this state, which is equipped with one or more recording devices commonly referred to as "event data recorders" including "sensing and diagnostic modules" shall disclose that fact in or along with the owner's manual for the vehicle.

2. As used in this section, (a) "event data recorder" means a feature that is installed by the manufacturer of the vehicle and does one or more of the following, for the purpose of capturing data for retrieval after a crash:

(i) Records vehicle speed and/or direction.

(ii) Records vehicle location.

(iii) Records vehicle steering performance.

(iv) Records brake performance, including, but not limited to, whether brakes were applied before a crash.

(v) Records the driver's seatbelt status.

(vi) Has the ability to transmit information concerning a crash in which the motor vehicle has been involved to a central communications system when a crash occurs.

(b) "owner" means a person having all the incidents of ownership, including the legal title of a vehicle whether or not such person lends, rents or creates a security interest in the vehicle; a person entitled

to the possession of a vehicle as the purchaser under a security agreement; or the person entitled to possession of the vehicle as lessee pursuant to a written lease agreement, provided such agreement at inception is for a period in excess of three months.

3. Data described in subdivision two of this section that is recorded on an event data recorder may not be downloaded or otherwise retrieved by a person other than the owner of the motor vehicle at the time the data is accessed, except under one of the following circumstances:

(a) The owner of the motor vehicle or the owner's agent or legal representative consents to the retrieval of the information.

(b) In response to an order of a court or other judicial or administrative authority having jurisdiction to issue the order.

(c) For the purpose of improving motor vehicle safety, security or traffic management including for medical research of the human body's reaction to motor vehicle crashes, provided that the identity of the registered owner or driver is not disclosed in connection with that retrieved data. For purposes of this section the disclosure of the vehicle identification number (VIN) with the last four digits deleted, does not constitute the disclosure of the identity of the registered owner or driver.

(d) The data is retrieved by a licensed new motor vehicle dealer as defined in section four hundred fifteen of this article or by an automotive technician trained in such retrieval and employed by a registered motor vehicle repair shop as defined in article twelve-A of this chapter, for the purpose of diagnosing, servicing, or repairing the motor vehicle.

(e) The data is retrieved for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle crash.

4. A person, including a service or data processor operating on behalf of such a person authorized to download or otherwise retrieve data from an event data recorder pursuant to paragraph (c) of subdivision three of this section, may not release that data, except for the purposes of motor vehicle safety and medical research communities to advance motor vehicle safety, security or traffic management, or to a data processor

solely for the purpose permitted by this subdivision, and only if the identity of the owner or driver is not disclosed.

5. (a) If a motor vehicle is equipped with a recording device that is capable of recording or transmitting information as described in subparagraph (ii) or (vi) of paragraph (a) of subdivision two of this section and that capability is part of a subscription service, the fact that the information may be recorded or transmitted shall be disclosed in the subscription service agreement.

(b) Subdivision three of this section does not apply to subscription services meeting the requirements of paragraph (a) of this subdivision.

§ 417. Certificates by retail dealers on sales of second hand motor vehicles. Upon the sale or transfer of title by a retail dealer of any second hand motor vehicle, intended for use by the buyer, his agent or representative upon the public highways, the vendor shall execute and deliver to the vendee an instrument in writing, in a form prescribed by the commissioner, in which shall be given the make, year of manufacture and identification number of the said motor vehicle, the name and address of the vendee, and the date of delivery to the vendee. Such notice shall also contain a certification that said motor vehicle complies with such requirements of this chapter as shall be specified by the commissioner and that it is in condition and repair to render, under normal use, satisfactory and adequate service upon the public highway at the time of delivery. It shall also certify that such vehicle complies with the equipment requirements in section four hundred nineteen-a of this article.

The failure of the vendor to deliver to the vendee the certificate required by this section or delivery of a false certificate knowing the same to be false or misleading or without making an appropriate inspection to determine whether the contents of such certificate are true shall constitute a violation of this section. The delivery of a false certificate shall raise presumption that such certificate was issued without an appropriate inspection.

This section shall not apply to a motor vehicle transferred to a lessee, a family member of a lessee, or an employee of a lessee, who has had possession of the vehicle for a period of one hundred twenty days or more under a lease.

§ 417-a. Mandatory disclosures by sellers prior to resale. 1. Certificate of prior use by dealer. (a) Upon the sale or transfer of title by a dealer of any second-hand passenger motor vehicle, the dealer shall execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner which shall set forth the nature of the principal prior use of such vehicle when the dealer knows or has reason to know that such use was as a taxicab, rental vehicle, police vehicle, or vehicle which has been repurchased pursuant to either section one hundred ninety-eight-a or one hundred ninety-eight-b of the general business law, a similar statute of another state, or an arbitration or alternative dispute procedure.

(b) Upon the sale or transfer of title by a dealer of any passenger motor vehicle that the dealer knows or has reason to know was previously used as a driver education vehicle, the dealer shall execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner acknowledging such prior use.

2. Certificate of prior nonconformity by manufacturer or dealer. Upon the sale or transfer of title by a manufacturer, its agent or any dealer of any second-hand motor vehicle, previously returned to a manufacturer or dealer for nonconformity to its warranty or after final determination, adjudication or settlement pursuant to section one hundred ninety-eight-a or one hundred ninety-eight-b of the general business law, the manufacturer or dealer shall execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner setting forth the following information in ten point, all capital type: "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER OR DEALER BECAUSE IT DID NOT CONFORM TO ITS WARRANTY AND THE DEFECT OR CONDITION WAS NOT FIXED WITHIN A REASONABLE TIME AS PROVIDED BY NEW YORK LAW." Such notice that a vehicle was returned to the manufacturer or dealer because it did not conform to its warranty shall also be

conspicuously printed on the motor vehicle's certificate of title.

3. Violation. The failure of a dealer to deliver to the buyer the instrument required by this section or the delivery of an instrument containing false or misleading information shall constitute a violation of this section.

4. Private Remedy. A consumer injured by a violation of this section may bring an action to recover damages. Judgment may be entered for three times the actual damages suffered by a consumer or one hundred dollars, whichever is greater. A court also may award reasonable attorneys' fees to a prevailing plaintiff buyer.

5. a. Action by the attorney general. Upon any violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution.

b. Whenever the court shall determine that a violation of this section has occurred, it may impose a civil penalty of not more than one thousand dollars for each violation. In connection with an application made under this subdivision, the attorney general is authorized to take proof and to make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

§ 417-b. Mandatory disclosures by second-hand dealers prior to resale. 1. Upon the sale or transfer of title by any dealer of any second-hand

motor vehicle which was manufactured or assembled on or after July first, nineteen hundred ninety-one and designed as a nineteen hundred ninety-two or later model and which the dealer knows or has reason to know that such vehicle is not equipped with a tamper-resistant odometer as provided in subdivision forty-six of section three hundred seventy-five of this chapter, the dealer shall execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner setting forth the following information in ten point, all capital type: "IMPORTANT: THIS VEHICLE IS NOT EQUIPPED WITH A TAMPER-RESISTANT ODOMETER." Such notice that a vehicle is not equipped with a tamper-resistant odometer shall also be conspicuously printed on the motor vehicle's certificate of title.

2. The failure of a dealer to deliver to the buyer the instrument required by this section or the delivery of an instrument containing false or misleading information shall constitute a violation of this section.

3. A consumer injured by a violation of this section may bring an action to recover damages. Judgment may be entered for three times the actual damages suffered by a consumer or one hundred dollars, whichever is greater. A court also may award reasonable attorneys' fees to a prevailing plaintiff buyer.

4. a. Upon any violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution.

b. Whenever the court shall determine that a violation of this section has occurred, it may impose a civil penalty of not more than one thousand dollars for each violation. In connection with an application made under this subdivision, the attorney general is authorized to take proof and to make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

§ 417-c. Mandatory disclosures by sellers prior to resale. 1. Certificate of prior nonconformity by manufacturer or dealer. Upon the sale or transfer of title by a manufacturer, its agent or any dealer of any second-hand fire vehicle or ambulance, previously returned to a manufacturer or dealer for nonconformity to its warranty or after final determination, adjudication or settlement pursuant to section one hundred nine-d of the general municipal law, the manufacturer or dealer shall execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner setting forth the following information printed in conspicuous in ten point, all capital type: "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER OR DEALER BECAUSE IT DID NOT CONFORM TO ITS WARRANTY AND THE DEFECT OR CONDITION WAS NOT FIXED WITHIN A REASONABLE TIME AS PROVIDED BY NEW YORK LAW." Such notice that a vehicle was returned to the manufacturer or dealer because it did not conform to its warranty shall also be conspicuously printed on the motor vehicle's certificate of title.

2. Violation. The failure of a manufacturer or dealer to deliver to the buyer the instrument required by this section or the delivery of an instrument containing false or misleading information shall constitute a violation of this section.

3. Private remedy. A consumer injured by a violation of this section may bring an action to recover damages. Judgment may be entered for three times the actual damages suffered by a consumer or one hundred dollars, whichever is greater. A court also may award reasonable attorneys' fees to a prevailing plaintiff buyer.

4. Action by the attorney general. a. Upon any violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may award a sum not exceeding two thousand dollars against each defendant, whether or not costs have been awarded, and direct restitution.

b. Whenever the court shall determine that a violation of this section has occurred, it may impose a civil penalty of not more than one thousand dollars for each violation. In connection with an application made under this subdivision, the attorney general is authorized to take proof and to make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

§ 418. Punishment for violations. Except as otherwise provided, the violation of any of the provisions of sections four hundred fifteen and four hundred sixteen of this chapter shall be a traffic infraction.

§ 419. Recreational vehicle shows or exhibits. Notwithstanding any other provision of this article to the contrary, a recreational vehicle dealer licensed to do business as such in another state or jurisdiction may participate in a vehicle show or exhibit which has, when it opens to the public, at least a total of fifty dealers from both this state and outside this state manning recreational vehicle manufacturer displays if the show or exhibit is trade-oriented and is predominantly funded by recreational vehicle manufacturers. All of the participating dealers who are not licensed by this state must be from a state contiguous to this state which permits recreational vehicle dealers licensed as such in this state to participate in like shows or exhibits in that state under

conditions substantially equivalent to the conditions which are imposed upon dealers from that state who participate in recreational vehicle shows or exhibits in this state and are duly licensed and authorized by their state of residence to sell recreational vehicles. Except as otherwise provided, nothing herein shall be deemed to waive or alter any other provision of law, rule or regulation. For the purpose of this section, the term "recreational vehicle" shall have the same meaning as "house coach" as such term is defined in section one hundred nineteen of this chapter.

§ 419-a. Inflatable restraint system, required equipment upon sale. No retail dealer may sell a second hand motor vehicle which is subject to federal motor vehicle safety standards for inflatable restraint systems as provided in part 571.208 of title 49 of the code of federal regulations, unless such vehicle is equipped with an inflatable restraint system which conforms to such federal motor vehicle safety standard applicable to that vehicle and the readiness indicator light does not indicate a malfunction of the inflatable restraint system.

ARTICLE 17

OTHER PROVISIONS RELATING TO REGISTRATION AND POSSESSION

Section 420. Transfer of registration.
420-a. Dealer issued temporary registration.
421. Sale of motor vehicle, trailer or part thereof with changed identification number.
422. Special vehicle identification numbers.
423. Peace officers and their duties.
423-a. Enforcement procedures for insuring the retention of vehicle identification numbers on vehicles.
424. Stolen or impounded motor vehicles.
425. Repossession of motor vehicle or motorcycle; garageman's lien; notice to police.
426. Punishment for making false statement; stolen vehicles.
427. Disposition of registration fees.
428. Refunds.

429. Junk and salvage vehicles.
430. Retail sale of junk and salvage vehicles.
431. Vehicle identification numbers.

§ 420. Transfer of registration. 1. Upon the transfer of ownership or the destruction of a motor vehicle, motorcycle or trailer, its registration shall expire; and the seller, or the owner in case of destruction, shall remove the number plates from the vehicle.

2. Such seller or owner may, however, register another vehicle and use said number plates thereon, if appropriate, upon making application for such registration, paying a transfer fee of ten dollars, and paying the proportional excess, if any, of the annual fee for registering the second vehicle over the annual fee for registering the first vehicle for each day or fraction thereof constituting the unexpired registration period. If the number plates of the first vehicle are not appropriate for the second vehicle, the commissioner or his or her agent shall, upon the surrender of such number plates, furnish appropriate number plates.

3. Provided, however, that upon the death of an owner of a registered motor vehicle, motorcycle or trailer, its registration shall, unless the vehicle is destroyed, be deemed to continue in force as a valid registration until the end of the year or until the ownership of such vehicle is transferred by the executor or administrator of the estate of such owner or by the distributees of his personal property, whichever occurs first. If the ownership of such vehicle is transferred as exempt property under section 5-3.1 of the estates, powers and trusts law to the surviving spouse of the owner, the fee for the initial registration issued to such surviving spouse shall be the fee for such registration reduced by the amount of the fee remaining for the unexpired term of the registration issued to the deceased.

4. Provided, further, that upon the permanent removal of a vehicle from the state, the owner may remove the number plates and be entitled to the same privileges as though the vehicle had been sold or destroyed.

5. Provided, further, that a holder of manufacturers' and dealers' registration having a motor vehicle, motorcycle or trailer registered in his or its name under the provisions of this chapter may, if such vehicle is placed in stock for sale, also remove the number plates and be entitled to the same privileges as though the vehicle had been sold or destroyed.

6. Provided, further, that the registration of a vehicle registered in the names of two or more persons, as partners or otherwise, shall not expire upon a change in ownership of the vehicle so long as any of the persons named in such registration as owners of the vehicle is the owner or part owner of the vehicle. However, when any change in the ownership of such a vehicle occurs and the registration does not expire, the owner or owners after such change shall forthwith file with the commissioner a statement of the ownership of such vehicle in such form as the commissioner shall require, together with a fee of ten dollars, and the commissioner shall issue a new certificate of registration.

7. Where a dealer having registration under the provisions of section four hundred fifteen of this chapter sells or trades a vehicle to a person who has another vehicle duly registered under this chapter, or who had another vehicle previously so registered, and the registration of such vehicle is eligible for transfer to the purchased vehicle under the provisions of this section and the number plates of the first vehicle are appropriate, such dealer may issue on any date on which the registration of a motor vehicle may be used a temporary certificate of registration of the second vehicle under which such vehicle may be operated as a duly registered vehicle for a period of thirty days from the date of issuance, other provisions of this chapter notwithstanding. Such temporary certificate of registration may be extended by the commissioner for an additional thirty days, except that in no event shall any such temporary certificate of registration be valid after the expiration date of the registration for the first vehicle. Such certificate shall be issued upon a form furnished by the commissioner and shall be executed in such manner as he shall prescribe.

8. The owner of a registered motor vehicle, motorcycle or trailer may

transfer the registration and, if appropriate, the number plates thereof to another vehicle owned by him or her upon making application for such transfer, paying a transfer fee of ten dollars, and paying the proportionate excess, if any, of the annual fee for registering the second vehicle over the annual fee for registering the first vehicle for each day or fraction thereof constituting the unexpired registration period, provided, however, that the registration and number plates for the second vehicle, if such vehicle is registered in this state, are either surrendered to the commissioner or transferred to another vehicle as provided herein. If the number plates of the first vehicle are not appropriate for the second vehicle, the commissioner or his or her agent shall, upon the surrender of such number plates, furnish appropriate number plates. Whenever a total fee for reregistration prescribed in this section shall amount to a fee other than a whole dollar amount, the fee required to be paid shall be rounded to the nearest twenty-five cents.

§ 420-a. Dealer issued temporary registration. 1. Where a dealer having a registration under the provisions of section four hundred fifteen of this chapter sells or transfers a vehicle, he may issue a temporary registration for such vehicle, which registration shall permit, such vehicle to be operated as a duly registered vehicle for a period of thirty days from the date of issuance, other provisions of this chapter notwithstanding. Such temporary registration may be extended by the commissioner for an additional thirty days and shall consist of a form or forms which shall be obtained from the commissioner by the dealer, and executed, issued and displayed in accordance with the provisions of this section and in such manner as the commissioner shall prescribe.

2. A qualified dealer may obtain temporary registrations to be issued in accordance with the provisions of this section by applying to the commissioner and paying a fee of five dollars for each such temporary registration. The commissioner may limit the number of temporary registrations given to a dealer at any one time or the number of unissued temporary registrations in the possession of a dealer at one

time.

3. A qualified dealer may issue a temporary registration under this section only to a person to whom he has sold or transferred a vehicle. Such a temporary registration may not be issued for a vehicle which is eligible for issuance of a temporary certificate of registration pursuant to subdivision seven of section four hundred twenty of this article. The commissioner may, by regulation, exclude specific classes or types of vehicles from the provisions of this section.

4. Before issuing a temporary registration, a qualified dealer must have in his possession all application forms properly completed, all documents, fees and any other charges which must be submitted to the commissioner for the issuance of a registration by the commissioner. Such dealer must make application for registration for such vehicle and must submit all such forms, documents, fees and charges to the commissioner in a manner prescribed by the commissioner and, unless otherwise provided by the commissioner, within five calendar days of the date of issuance of the temporary registration.

5. Any registration issued by the commissioner as a result of an application submitted by a qualified dealer who has issued a temporary registration for such vehicle pursuant to this section shall be issued as of the date the dealer issued the temporary registration.

6. In order for a temporary registration issued pursuant to this section to be valid, it must be displayed on the vehicle for which it is issued in the manner prescribed by the commissioner.

7. A dealer may not make a separate charge for the issuance of a temporary registration.

8. The commissioner may refuse to issue temporary registrations to a dealer registered pursuant to section four hundred fifteen of this chapter or he may require the surrender of unissued temporary registrations in the possession of such dealer, if he determines that the dealer has not complied with the provisions of this section or any

regulations promulgated thereunder. If the commissioner refuses to issue such temporary registrations or requires the surrender of such temporary registrations, a qualified dealer may request a hearing on such determination by making a written request for such hearing to the commissioner. Upon receipt of such request, a hearing must be held within ten days of receipt.

9. If a dealer registration expires or is suspended or revoked, or if a dealer goes out of business, all unissued temporary registrations in the possession of such dealer must be surrendered to the commissioner. Upon application by such dealer, the fee for such unissued temporary registrations shall be refunded upon surrender, except that no such refund shall be made if the dealer registration has been suspended or revoked or the commissioner has required that temporary registrations be surrendered pursuant to subdivision eight of this section.

10. The commissioner shall prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

11. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund, with the exception of the three dollar increase in the fee for issuance of temporary registrations pursuant to subdivision two of this section, which shall be deposited to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law.

§ 421. Sale of motor vehicle, trailer or part thereof with changed identification number. 1. Any person engaged in the business of buying or selling motor vehicles, trailers, or parts thereof, shall be presumed to have determined and to know the original vehicle identification numbers and special identification numbers on any motor vehicle, trailers or parts thereof purchased or sold by such person, both at the

time of purchase and sale.

2. Any person engaged in the business of buying or selling motor vehicles, trailers, or parts thereof, who sells or offers for sale a motor vehicle, trailer, or part thereof, the original vehicle identification number or special identification number of which shall have been destroyed, removed, altered, defaced or so covered as to be effectually concealed, without having complied with regulations promulgated by the commissioner, shall be guilty of a class E felony.

3. Any person, other than a person engaged in the business of buying or selling motor vehicles, trailers, or parts thereof, who knowingly sells or offers for sale a motor vehicle, trailer, or part thereof, the original vehicle identification number or special identification number of which shall have been destroyed, removed, altered, defaced or so covered as to be effectually concealed shall be guilty of a class E felony. In any prosecution under this subdivision, the purchase of the motor vehicle, trailer or part from a dealer registered pursuant to section four hundred fifteen of this chapter, a vehicle dismantler registered pursuant to section four hundred fifteen-a of this chapter, or a motor vehicle repair shop registered pursuant to section three hundred ninety-eight-c of this chapter shall be presumptive evidence that the purchaser did not have knowledge of the destruction, removal, alteration, defacing or covering of the original vehicle identification number or special identification number.

4. For the purposes of this article, the term "original identification number" shall mean any number embossed, engraved, etched, affixed to a label, sticker or plate or similarly marked on any part of a motor vehicle, trailer or vehicle part which is assigned by the manufacturer for the purpose of identification of that particular motor vehicle, trailer or vehicle part and the location of which number is made available to the public.

§ 422. Special vehicle identification numbers. The commissioner may, by regulation, provide for the issuance of a special vehicle

identification number. Such regulations shall be applicable whenever a special vehicle identification number is required by any provision of law. With respect to a vehicle part for which an inspection is required pursuant to subdivision two of section four hundred twenty-three-a of this chapter, a special identification number may consist of a distinguishing mark. Such special vehicle identification number shall be affixed only by or under the direction of a member of the department of motor vehicles who has the powers of a peace officer pursuant to section three hundred ninety-two-b of this chapter. A fee of twenty-five dollars shall be paid to the commissioner before such number shall be issued, except that no fee shall be required of a governmental agency.

§ 423. Peace officers and their duties. The officers and members of the state police, any local police department and any peace officer acting pursuant to his special duties shall have and exercise the power and it shall be their duty to investigate and make arrests for violations of the provisions of this chapter. They shall investigate any theft of a motor vehicle or trailer, of which they receive notice or have information, and arrest or cause the arrest of any person where reasonable grounds exist to believe that such person has stolen a motor vehicle or trailer, and, when necessary for such arrest, make complaint on information before the proper court or magistrate.

§ 423-a. Enforcement procedures for insuring the retention of vehicle identification numbers on vehicles. 1. Seizure of vehicle. (a) Members of the state police, any local police department or any peace officer acting pursuant to his special duties shall seize and confiscate a motor vehicle or trailer if any original identification number or special identification number is destroyed, removed, altered, defaced or so covered as to be effectually concealed.

(b) The commissioner shall establish standards for determining whether an identification number on a motor vehicle, trailer or part thereof is destroyed, removed, altered, defaced or so covered as to be effectually concealed. Whenever a vehicle described in paragraph (a) of this subdivision is seized or confiscated, members of the state police, local

police department or peace officers acting pursuant to their special duties, if warranted, shall arrest the supposed owner or custodian thereof, and cause prosecution to be brought in a court of competent jurisdiction. It shall be the duty of the appropriate agency or the department of motor vehicles to retain the custody of each motor vehicle, trailer or part seized pending the prosecution of the person arrested until the ownership of such motor vehicle, trailer or part shall have been ascertained. If the ownership of such motor vehicle, trailer or part cannot be ascertained, or if the owner or custodian is convicted of the theft or unlawful possession of said motor vehicle, trailer or part, such motor vehicle, trailer or part, if in the possession of the state police or any other state agency shall, at the direction of the office of general services, be held for, or delivered into the possession of, such office, and title shall vest in such office, or if in the possession of a local police department or other local authority, such motor vehicle or trailer shall be treated as an abandoned vehicle pursuant to section twelve hundred twenty-four of this chapter, or such part may be sold by the local authority to a registered dealer or to a registered vehicle dismantler or certified scrap processor as defined in subdivision nine of section four hundred fifteen-a of this chapter.

2. Assignment of a new identification number. If a person other than the person arrested be the owner, the motor vehicle, trailer or part shall be returned to him as soon as he has arranged to have the department of motor vehicles affix a new number, or in the case of a part, inspect such part, and the department has done so, as provided in section four hundred twenty-two of this chapter. Prior to the return of the motor vehicle, trailer or part, or the transfer of custody of said motor vehicle, trailer or part, the arresting officer shall transmit notice of the arrest to the commissioner.

3. Disposition of certain motor vehicles, trailers and parts. (a) If the owner of a motor vehicle or trailer cannot be ascertained, or if the owner or custodian is arrested and convicted of the theft or unlawful possession of said motor vehicle or trailer, and such motor vehicle or trailer is held for or is in the possession of the office of general

services, the office of general services shall sell the motor vehicle or trailer at public auction or by bid, or, it may be registered for use by the office or by a state agency in the performance of the duties of the office or of such state agency, provided that the department of motor vehicles first affixes a special identification number to the motor vehicle or trailer, if required. The special identification number shall thereafter be used for identification, registration and all purposes of this chapter, and the purchaser thereof may sell and transfer the motor vehicle or trailer bearing such a special identification number or numbers.

(b) If the owner of a part or parts of a motor vehicle or trailer cannot be ascertained, or if the owner or custodian is arrested and convicted of the theft or unlawful possession thereof, and such part is held for or is in the possession of the office of general services, the office of general services shall sell such part or parts to a registered dealer or to a registered vehicle dismantler or a certified scrap processor as defined in subdivision nine of section four hundred fifteen-a of this chapter.

(c) Notwithstanding any other provision of this section, ownership of an unidentifiable part in an otherwise identifiable vehicle, other than a stolen vehicle, held by the department or by a police department may be transferred to the owner of such vehicle provided that the department or police department has made findings that such owner had no knowledge that the part was unidentifiable and that such owner was neither responsible for rendering such part unidentifiable nor acting in concert with any person who rendered or had such part rendered unidentifiable. Such a transfer may be made to a person who is presumed to have determined and to know identification numbers on motor vehicles and parts pursuant to subdivision one of section four hundred twenty-one of this article only upon payment to the department or to the police department of an amount equal to the reasonable wholesale value of the part. Such a transfer may be made to any other person without any payment being made to the department or police department provided that the department or police department is satisfied that the person has been the owner of the vehicle with the unidentifiable part contained therein for a period of at least eighteen months. Such findings may only be made after an investigation and, if appropriate, a hearing. Such

investigation shall be made promptly by the department or the police department upon the request of such owner. Proceeds from the transfer of any such part shall be paid into the general fund of the state if transferred by the department or the division of state police, or into the general fund of the appropriate local authority, if transferred by a local police department. No such part shall be so transferred until a special identification number has been affixed to such part and the appropriate fee has been paid by the owner of the vehicle.

4. Whenever a vehicle or part which is in the possession of the state police or any other state agency or a local police agency or other local authority is returned to an owner, the cost of making delivery of the vehicle or part shall be a charge upon such owner. With respect to motor vehicles, trailers and parts held by the state police or any other state agency, the commissioner of the office of general services, after consultation with the commissioner of motor vehicles, shall promulgate regulations to effectuate the provisions of this section. Such regulations may include, but shall not be limited to, provisions for the removal of parts from vehicles, the storage and sale of vehicles and parts and the recovery of costs incurred in performing the duties required herein.

5. Notwithstanding any other provision of law, if the commissioner is holding a vehicle or vehicle part, upon determination of the rightful owner of the vehicle or vehicle part, the commissioner shall give written notice to the owner to retrieve such vehicle or vehicle part. Fifteen days after the receipt of such notice by certified mail, the commissioner shall impose a storage charge of ten dollars a day for a vehicle and five dollars a day for a vehicle part or parts. Unpaid storage charges shall be a lien upon the vehicle or vehicle part and such lien may be foreclosed in accordance with article nine of the lien law. Any moneys collected as storage charges or as the result of foreclosure of liens for storage shall be used to fund the motor vehicle theft prevention program established by section two hundred twenty-three of this chapter.

§ 424. Stolen or impounded motor vehicles. 1. (a) Agencies which are members of the New York statewide police information network shall report any theft, recovery or impounding of a motor vehicle, trailer or part or parts thereof to such network. Agencies which are not members of the New York statewide police information network shall make such reports through a member agency. Such reports shall if possible contain at least the vehicle identification number, the date of theft, recovery or impounding of the vehicle, the license plate number and where the vehicle was stolen, recovered or impounded and the name, address and telephone number of the facility where such vehicle has been stored. Such information shall be made available to the commissioner of motor vehicles. The commissioner may assist in providing information with respect to stolen or recovered motor vehicles, trailers and parts as he may deem advisable.

(b) For the purposes of this subdivision the term "impound" shall be deemed to include the taking into possession by an agency of any motor vehicle which has been abandoned, repossessed, seized pending forfeiture proceedings, taken into custody or held as evidence in the course of a police investigation, required to be impounded by law, or in any other way taken into possession or held by an agency under circumstances in which the owner may not reasonably have knowledge of the status of the vehicle. Nothing contained herein shall preclude a police department, which has taken a vehicle into custody under these or other circumstances, from entering a vehicle into the New York statewide police information network as an impounded vehicle to facilitate location of the vehicle by its owner.

2. Any police officer, state trooper or peace officer acting pursuant to his or her special duties shall have the power to seize any motor vehicle or trailer in the state when there is good reason to believe that such motor vehicle or trailer has been stolen. Unless the vehicle is subject to the provisions of section four hundred twenty-three-a of this article, the appropriate agency shall contact the owner of such motor vehicle or trailer, if known, and, after any stolen vehicle alarm resulting from such theft has been cancelled, release the vehicle to such owner. If the owner thereof cannot be ascertained in accordance with procedures established by regulations of the commissioner, a local

police agency shall dispose of such vehicle as an abandoned vehicle pursuant to section twelve hundred twenty-four of this chapter, and the state police shall hold such vehicle for, or deliver it to the office of general services.

§ 425. Repossession of motor vehicle or motorcycle; garageman's lien; notice to police. 1. Any person, firm or corporation, or agent, employee or representative thereof, repossessing or retaking a motor vehicle or motorcycle pursuant to the provisions of article nine of the uniform commercial code, or other authority of law, or any contract or agreement, shall, immediately following such repossession or retaking, personally appear at a station house or other office of the police department, or agency or officer performing like functions, in the locality wherein such repossession or retaking occurred, give notice to such department, agency or officer of such repossession or retaking and thereafter and within twenty-four hours of the tenth day after such repossession or retaking personally deliver or mail by first class mail to the nearest motor vehicle office of the state or county acting as an agent of the commissioner pursuant to section two hundred five of this chapter, (a) notice of such repossession or retaking in such form as the commissioner may require and (b) the number plates of such motor vehicle or motorcycle. Notice of such repossession or retaking, including the name and address of the person, firm or corporation repossessing or retaking the same, shall also be given within twenty-four hours thereof to the owner of such motor vehicle or motorcycle, either personally or by registered or certified mail, or by first class mail, with a certificate of mailing properly endorsed by the postal service to be obtained, directed to such owner at his or her last-known address. Unless the motor vehicle or motorcycle can be repossessed or retaken without breach of the peace, it shall be repossessed or retaken by legal process, but nothing herein contained shall be construed to authorize a violation of the criminal law.

2. Any person, firm or corporation, or agent, employee or representative thereof holding a motor vehicle or motorcycle under a lien for repairs or storage pursuant to any authority of law, or any

contract or agreement shall return any registration plates for such vehicle which are in his possession to the registrant upon the registrant's request, or if not so returned shall, within twenty-four hours after such request, personally deliver or mail by special delivery first class mail to the nearest motor vehicle office (a) notice of such holding in such form as the commissioner may require and (b) the number plates of such motor vehicle or motorcycle.

§ 426. Punishment for making false statement; stolen vehicles. Any person who shall knowingly make any false statement of a material fact in any endorsement of a certificate of registration, certificate of title or other proof of ownership, upon a sale or transfer of a motor vehicle or trailer, or who, with intent to procure or pass title to a motor vehicle or trailer which he knows, or has reason to believe, has been stolen, shall receive or transfer possession of the same from or to another, or who shall have in his possession any motor vehicle or trailer which he knows, or has reason to believe, has been stolen, and who is not an officer of the law engaged at the time in the performance of his duty as such officer shall be guilty of a class E felony.

§ 427. Disposition of registration fees. 1. The commissioner of motor vehicles shall deposit all fees collected under this chapter, except as otherwise provided in subdivision twenty-one of section four hundred one of this chapter, in a responsible bank, banking house or trust company in the city of Albany, which shall pay the highest rate of interest to the state for such deposit, to the credit of the comptroller on account of the motor vehicle law. Every such bank, banking house or trust company shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safe keeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank, banking house, or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney-general as to its form. The

comptroller shall on the first day of each month make a verified return to the department of taxation and finance, of all fees received by him under this chapter during the preceding calendar months, stating from what county received and by whom and when paid.

2. The comptroller, after reserving sufficient to provide at all times a fund in his hands of five thousand dollars out of which he shall pay any refund under this chapter, approved by him and by the commissioner, shall on or before the tenth day of each month pay to the department of taxation and finance the balance to his credit in such bank, banking house or trust company, on account of fees collected under this chapter at the close of business on the last day of the preceding month and such department shall pay such balance into the general fund of the state treasury.

3. An amount equal to ninety per centum of the fees specified in subdivision two of this section shall be appropriated and used for the construction, reconstruction, maintenance and repair of highways and bridges, under the direction of the department of transportation; and for inspection, regulation, and research in the control of motor vehicle exhaust emissions under the direction of the department of environmental conservation. The amount available for control of motor vehicle exhaust emissions from said ninety per centum of the fees collected shall be computed at the rate of five cents per registration issued and shall be available for payment to the state purposes fund for repayment of advances made in the first instance from that fund for control of motor vehicle emissions.

§ 428. Refunds. 1. Any fee paid for the registration of a vehicle under the provisions of this chapter shall be refunded, less the sum of one dollar, provided that the commissioner and the state comptroller are satisfied that the registration has not been used and the number plates and sticker have been surrendered to the commissioner within two months after the date the fee was paid or the beginning of the registration period for which the registration was issued, whichever comes later and application therefor is filed with the commissioner within the period of

validity for which such registration was issued.

1-a. Notwithstanding the provisions of subdivision one of this section, if a registration is issued for a period of not less than two years pursuant to paragraph c of subdivision five of section four hundred one of this chapter, the registration fee paid for the period commencing after the first twelve month period of such registration shall be refunded less the sum of one dollar provided the number plates are surrendered to the commissioner before the end of the first twelve month period of such registration and application therefor is filed with the commissioner within two months from the expiration of the first twelve month period of such registration.

1-b. The commissioner is directed to make public notification that registration fees shall be refunded and to send by first class mail a written notice and an application for refund of any registration fees to any person entitled to a registration fee refund according to subdivision one-a of this section that has been unable to obtain a registration fee refund during the period commencing September first, nineteen hundred ninety-seven and ending June thirtieth, nineteen hundred ninety-eight. Such written notice shall advise such person that a registration fee shall be refunded after an application for refund is filed with the commissioner. Such public notification shall be made through such newspapers throughout all regions of the state as may be designated by the commissioner.

No application for a refund of registration fees shall be denied because of the failure to file an application therefor within two months of the expiration date of the first twelve month period of such registration if such registration was surrendered between September first, nineteen hundred ninety-seven and June thirtieth, nineteen hundred ninety-eight and the applicant therefor has not received credit for such registration fees pursuant to section four hundred twenty of the vehicle and traffic law.

2. Upon the surrender to the commissioner of the number plates or plate issued for a vehicle registered under the provisions of this

chapter and the furnishing of proof satisfactory to the commissioner and the state comptroller that the owner of the vehicle entered the armed forces of the United States after such vehicle was registered, and that the registration of such vehicle is in full effect, there shall be refunded to such owner, or to such person as he shall designate in writing, a sum equal to as many twelfths of the fee paid for the registration of the vehicle as there are full calendar months in the registration year following the date of the receipt of the number plates or plate, less the sum of one dollar.

3. Where a refund of any part of a registration fee is made pursuant to the foregoing provisions of this section, the registration shall thereupon be automatically cancelled.

4. The application fee accompanying an accepted application for a driver's license shall in no case be refunded.

5. Money paid for fees in excess of the amounts required by law may be refunded subject to approval of the commissioner and the state comptroller, provided application therefor is filed with the commissioner within one year after the date the fee was paid or, with respect to fees paid for a registration, on or before the expiration of the registration for which such fee was paid, whichever occurs later.

§ 429. Junk and salvage vehicles. 1. Requirements upon acquisition of junk or salvage vehicles. (a) By an insurance company. Whenever an insurance company acquires a motor vehicle in settlement of a claim for damage thereto or theft thereof, such company shall deliver a statement concerning such acquisition to the commissioner as provided in this section. Such company shall deliver the certificate of title or any other ownership documents relating to such motor vehicle properly executed to transfer title from the insured to the company and notices of release of security interest from any lienholder whose lien has been satisfied to the commissioner with the required statement of acquisition.

(b) By a vehicle dismantler. Whenever a person who is engaged in a

business requiring him to be registered as a vehicle dismantler or an itinerant vehicle collector acquires a motor vehicle which has been sold or otherwise disposed of as junk or for salvage, such person shall deliver a statement concerning such acquisition to the commissioner as provided in this section. Such person shall deliver the certificate of title or any other ownership documents relating to such motor vehicle properly executed to transfer title by the transferor to the vehicle dismantler or itinerant vehicle collector and notices of release of security interest from any lienholder whose lien has been satisfied to the commissioner with the required statement of acquisition. However, the provisions of this subdivision shall not apply to a vehicle which has been transferred to a vehicle dismantler registered under section four hundred fifteen-a of this chapter by means of a document issued pursuant to this section. The commissioner may, by regulation, allow the requirements of this subdivision with respect to the delivery of documents to be satisfied by an electronic filing of the necessary information by or on behalf of the person to whom such requirements apply.

(c) By other persons. Whenever a person other than a person described in paragraph (a) or (b) of this subdivision acquires ownership of a motor vehicle which has been sold or otherwise disposed of as junk or salvage or which is to be dismantled for use other than as a motor vehicle, such person shall deliver a statement concerning such acquisition to the commissioner as provided in this section. Such person shall deliver the certificate of title and any other ownership documents relating to such motor vehicle properly executed to transfer title by the transferor to such person and notices of release of security interest from any lienholder whose lien has been satisfied to the commissioner with the required statement of acquisition. However, the provisions of this subdivision shall not apply to a vehicle which has been transferred to any such person by means of a document issued pursuant to this section or to a scrap processor by a person registered or certified pursuant to section four hundred fifteen-a of this chapter.

(d) A statement of acquisition and all documents required to be submitted to the commissioner pursuant to this section or regulations promulgated thereunder must be so submitted within the time specified by regulation of the commissioner. Any person who, knowingly and willfully,

and with intent to defraud a subsequent purchaser as to the applicable status of a motor vehicle, makes any false statement on an application for title or duplicate title for a motor vehicle pursuant to this section or fails to submit the statement of acquisition and supporting documentation to the commissioner within the time specified by regulation shall be subject to a civil penalty of up to two thousand dollars for each offense found to have been committed. Such penalty may only be imposed if such person has had the opportunity to be heard before an officer or employee of the department designated for such purpose by the commissioner, upon any charge of a violation of this paragraph or regulations promulgated by the commissioner with respect to this paragraph.

1-a. Requirements for certain fleet vehicles. (a) Whenever a motor vehicle titled or registered by a fleet owner becomes a severely damaged fleet vehicle, prior to the transfer of such vehicle or any major component part thereof, the fleet owner shall deliver a statement concerning such occurrence to the commissioner as provided in this section. Such fleet owner shall deliver the certificate of title in its name or any other ownership documents relating to such motor vehicle and notices of release of security interest from any lienholder whose lien has been satisfied to the commissioner with the required statement concerning such occurrence. Such a statement shall be subject to all provisions of law applicable to a statement of acquisition except as may otherwise be specified by regulation of the commissioner.

(b) For the purposes of this section, a fleet owner shall mean a person who has twenty-five or more vehicles titled or registered in his name in this state and who does not have such vehicles insured for damage or theft by an insurance company duly authorized to transact business in this state.

(c) For the purposes of this section, a severely damaged fleet vehicle shall mean a motor vehicle titled or registered in the name of a fleet owner in this state or in any other state or province of Canada which has received damage and which has not been placed back in fleet use by the fleet owner subsequent to receipt of such damage. However, it shall not include a motor vehicle titled and registered in another state or a province of Canada if the damage was incurred outside of this state and

the vehicle is sold by the fleet owner outside of this state, or shall include a motor vehicle which has a fair market value after such damage of at least sixty percent of the fair market value of an undamaged similar model vehicle unless such motor vehicle requires the replacement of the engine in order to be made operable.

(d) If a severely damaged fleet vehicle is sold by a fleet owner in violation of this section, the purchaser or any subsequent good faith purchaser, may rescind such sale and recover the price he paid to his transferor for the vehicle from the fleet owner. Recovery of the purchase price may be enforced in a civil action to recover damages.

(e) The provisions of this subdivision shall not apply to any vehicle titled or registered in the name of a public utility subject to the authority of the public service commission for which such utility has obtained an exemption in accordance with the following provisions of this subdivision. In order to obtain such exemption, the utility must forward to the commissioner a listing, including model year, make and vehicle identification number of any or all vehicles for which exemption is requested not more than sixty and not less than thirty days prior to the date of proposed sale of such vehicle or vehicles. Such listing shall contain the date, time and place of such proposed sale. Any vehicle contained on such listing shall be exempt from the provisions of this subdivision, but such exemption shall be applicable only with respect to a sale of any such vehicle made upon the date contained on the listing.

2. Transfer of junk and salvage vehicles. (a) When an insurance company, vehicle dismantler, fleet owner, or any other person submits a statement of acquisition for a junk or salvage vehicle or a severely damaged fleet vehicle, as provided in subdivision one or one-a of this section, such insurance company, vehicle dismantler, or other person shall prepare and distribute a statement of acquisition in accordance with regulations promulgated by the commissioner. A copy of such statement of acquisition designated by the commissioner shall serve as proof of ownership for the vehicle and shall provide a method of transfer of such a vehicle as a junk vehicle and may serve as an application for title if the vehicle is subsequently rehabilitated or repaired for the purpose of being operated upon the public highways.

(b) The provisions of section four hundred twenty-one of this chapter prohibiting the sale of a motor vehicle with a removed, altered or defaced vehicle identification number plate shall not apply to the sale of any junk or salvage vehicle or any severely damaged fleet vehicle from an insurance company, a vehicle dismantler, a local authority, fleet owner or a dealer registered under section four hundred fifteen of this chapter provided the proof of ownership for such vehicle consists of a valid statement of acquisition and such statement of acquisition which transfers ownership of such vehicle indicates that the vehicle identification number plate is missing, altered or defaced.

(c) No person shall sell or advertise for sale or solicit a bid for the purchase of a junk or salvage vehicle without notifying any prospective purchaser or bidder of the existence or non-existence of any security interest with respect to such junk or salvage vehicle. If a security interest exists with respect to such vehicle, the name or names and address or addresses of the secured party or parties must also be provided to the prospective purchaser or bidder.

3. Items to be surrendered before intentional destruction of motor vehicles. A certified scrap processor or registered vehicle dismantler may crush a motor vehicle still displaying a vehicle identification number plate. The crushing must be so complete that the vehicle identification number plate cannot be readily removed. No other person shall cause or permit a motor vehicle to be scrapped, permanently dismantled or otherwise intentionally destroyed unless the vehicle identification number plate of such motor vehicle has been removed therefrom and either destroyed or delivered to the commissioner together with all title or any other ownership documents pertaining to such motor vehicle as provided in this section. If the vehicle identification number plate is not delivered to the commissioner, a notice indicating the disposition of such plate must accompany the ownership documents required to be submitted to the commissioner.

4. Forms and documents. Any forms or documents used in conjunction with this section shall be in a form prescribed by the commissioner and shall set forth a complete description of the motor vehicle, the name and address of the person to whom such motor vehicle was sold or

transferred or from whom such motor vehicle was acquired together with any other information deemed necessary or desirable by the commissioner to effectuate the provisions and purposes of this section. Any such statement, document or item required to be delivered to the commissioner by any provision of this section shall be deemed to have been so delivered when it has been either personally delivered or sent by mail to the office of the commissioner at the address designated by him.

4-a. Fees for statement of acquisition. The statement of acquisition provided for in this section shall be issued as prescribed by regulation of the commissioner upon payment of a fee of five dollars for each such statement. Such fee shall be paid to the commissioner for deposit in the general fund.

5. Motor vehicle subject to requirements. The provisions of this section shall apply to all motor vehicles sold, surrendered or otherwise disposed of, or acquired, or intentionally destroyed, within this state for which a certificate of title has been issued by the commissioner or which would be eligible to have such a certificate of title issued.

6. Penalties. A violation of any provision of this section shall be a misdemeanor.

§ 430. Retail sale of junk and salvage vehicles. 1. Whenever a motor vehicle for which a notice of acquisition is required to be filed pursuant to section four hundred twenty-nine of this article is to be registered for use on the public highway, the person holding the proof of ownership for such vehicle must surrender such proof of ownership and make application for a certificate of title. Except as otherwise provided herein, the commissioner shall require the physical examination of any such vehicle by a designated employee of the department before a title will be issued. Upon a request made with such an application for title, the commissioner may issue a temporary permit which shall be valid for the operation of such vehicle upon the public highways of this state, in accordance with regulations promulgated by the commissioner, from the date of its issuance until five days after the scheduled date

of the examination for such vehicle, including the transportation of the motor vehicle to and from the physical examination site, provided the application is accompanied by proof of inspection and evidence of insurance coverage satisfactory to the commissioner. Upon such examination for identification, the employee making such examination shall, in accordance with regulations promulgated by the commissioner, determine whether a special vehicle identification number shall be issued for such vehicle. A fee of one hundred fifty dollars shall be paid to the commissioner before such examination shall be scheduled or made. Such fee shall be forfeited if the motor vehicle is not presented for examination as scheduled unless the appointment for such examination has been cancelled or postponed in accordance with regulations promulgated by the commissioner. If a special vehicle identification number is issued after such examination, no additional fee shall be required for such issuance.

2. The provisions of subdivision one of this section relating to inspection for identification by an employee of the department shall not apply to a motor vehicle which has been transferred to an insurance company in settlement of a claim for the theft of such vehicle, provided the following conditions are met:

(i) no major component part of the motor vehicle has been replaced since the theft of such vehicle,

(ii) repairs made to the motor vehicle since the recovery of such vehicle either have not exceeded one-fourth of the amount paid by the insurance company in settlement of the claim or have not exceeded one thousand dollars,

(iii) the vehicle identification number and all other manufacturers' identifying numbers on the motor vehicle have been examined by the insurance company and are intact in the same form as at the time of the theft of such vehicle,

(iv) an affidavit sworn to by an officer of the insurance company is submitted by the insurance company which made payment in settlement of the claim for theft with the application for title certifying to the above conditions, which affidavit shall also certify additional facts as required by the commissioner relating to the theft and recovery of such vehicle and the amount of settlement and repair costs.

3. The commissioner may, by regulation, exempt vehicles from the physical examination required by subdivision one of this section based upon the age of the vehicles if the commissioner deems that such physical examination would not further the purposes of the motor vehicle theft prevention program established by section two hundred twenty-three of this chapter.

4. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund, with the exception of the fifty dollar increase in the fee for scheduling an examination pursuant to subdivision one of this section, which shall be deposited to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law.

§ 431. Vehicle identification numbers. 1. Every manufacturer or assembler of a vehicle sold in this state shall provide such vehicle with a vehicle identification number and, upon request of the commissioner, shall inform him concerning the location or locations of every vehicle identification number and other identifying numbers on such vehicle. The commissioner may refuse to register or issue a certificate of title for a vehicle made by a manufacturer or assembler who fails to comply with this section.

2. Whenever a special vehicle identification number has been issued by the commissioner, notification of such fact shall be promptly forwarded by the commissioner to the central organization designated by the superintendent of financial services pursuant to section three thousand four hundred twelve of the insurance law.

* ARTICLE 17-A
FRANCHISED MOTOR VEHICLE DEALER ACT

Section 460. Legislative findings.
461. Short title.
462. Definitions.
463. Unfair business practices by franchisors.
464. Obligations of dealers prior to delivery to retail buyers.
465. Procedures relating to warranties and sales incentives.
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469. Private actions.
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471. Notice requirement.
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* NB There are 2 Art 17-A's

§ 460. Legislative findings. The legislature finds and declares that the distribution and sale of motor vehicles within this state vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare and in the exercise of its police power, it is necessary to regulate motor vehicle manufacturers, distributors and factory or distributor representatives and to regulate dealers of motor vehicles doing business in this state in order to prevent frauds, impositions and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state.

§ 461. Short title. This article shall be known and may be cited as the "franchised motor vehicle dealer act".

§ 462. Definitions. Whenever used in this article:

1. "Distributor" means any person who primarily offers, sells or distributes new motor vehicles to franchised motor vehicle dealers or maintains distributor representatives within the state.

2. "Distributor branch" means a branch office maintained by a distributor which offers, sells or distributes new motor vehicles to franchised motor vehicle dealers in this state.

3. "Distributor representative" means a representative employed by a distributor branch or distributor.

4. "Factory branch" means a branch office maintained for directing and supervising the representatives of the manufacturer or which office is maintained for the sale of motor vehicles.

5. "Factory representative" means a representative employed by a factory branch for the purpose of making or promoting the sale of motor vehicles or for supervising, servicing, instructing or contacting franchised motor vehicle dealers or prospective motor vehicle dealers.

6. "Franchise" means a written arrangement for a definite or indefinite period in which a manufacturer or distributor grants to a franchised motor vehicle dealer a license to use a trade name, service mark or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or services related thereto at wholesale, retail, by lease or otherwise and/or pursuant to which a franchised motor vehicle dealer purchases and resells or offers (as agent, principal, or otherwise) products associated with the name or mark or related components of the franchise.

7. "Franchised motor vehicle dealer" means: (a) any person required to be registered pursuant to section four hundred fifteen of this title which has been granted a franchise as defined in subdivision six of this section, or (b) any person engaged in the business of selling

snowmobiles, all terrain vehicles and/or personal watercraft at wholesale or retail who has been granted a franchise; provided, however, that any person primarily engaged in the sale of vessels and other marine items who meets the definition of "dealer" as provided in subdivision one of section eight hundred ten of the general business law shall not be a "franchised motor vehicle dealer" pursuant to this article.

8. "Franchisor" means any manufacturer, distributor, distributor branch or factory branch, importer or other person, partnership, corporation, association, or entity, whether resident or non-resident, which enters into or is presently a party to a franchise with a franchised motor vehicle dealer.

8-a. "Good faith" means, in addition to any common law definitions of that term, honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade.

9. "Manufacturer" means any person, partnership, corporation, association, factory branch or other entity engaged in the business of manufacturing or assemblying new and unused motor vehicles for sale in this state.

10. "Motor vehicle" means: (a) any motor vehicle as defined in section one hundred twenty-five of this chapter, (b) any snowmobile as defined in article forty-seven of this chapter, (c) any all terrain vehicle as defined in article forty-eight-B of this chapter and (d) any personal watercraft as defined in section two of the navigation law, provided the commissioner shall have authority to except by regulation vehicles other than passenger automobiles, trucks and motorcycles from such definition.

11. "New motor vehicle" means a vehicle sold or transferred by a manufacturer, distributor or dealer, which has not been placed in consumer use or used as a demonstrator.

12. "New motor vehicle product" means any motor vehicle which is of the same line make of motor vehicle as those which the franchisor has

authorized its existing franchised motor vehicle dealers to sell under the existing franchises between franchised motor vehicle dealers and the franchisor.

13. "Line make" means all models of a specific brand of motor vehicle manufactured by a manufacturer that may manufacture several brands, each of which are a separate line of make; except that, as such term applies to the sale of any new house coach, means that group or those groups of house coaches, as defined by the terms of the written franchise.

14. Notwithstanding the provisions of section one hundred nineteen of this chapter, for purposes of this article the term "house coach" shall mean any vehicle motivated by a power connected therewith or propelled by a power within itself, which is designed to provide temporary living quarters, and which is built onto, as an integral part of, or is permanently attached to a motor vehicle chassis, and contains at least four of the following independent life support systems if each is permanently installed and designed to be removed only for purposes of repair or replacement and meets the standards of the American National Standards Institute for recreation vehicles:

(a) a cooking facility with an on-board fuel source;

(b) a gas or electric refrigerator;

(c) a toilet with exterior evacuation;

(d) a heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine;

(e) a potable water supply system that includes at least a sink, a faucet and a water tank with an exterior service supply connection; and

(f) a 110-125 volt electric power supply.

15. "Relevant market area" means:

(a) if the proposed additional or relocated motor vehicle dealer is to be located in a county having a population in excess of one hundred thousand, the area within the radius of six miles of the intended site of the proposed or relocated dealer. Such six mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or

relocated new motor vehicle dealer's place of business; or

(b) if the proposed additional or relocated motor vehicle dealer is to be within a county having a population of less than one hundred thousand, the area within the radius of ten miles of the intended site of the proposed or relocated dealer. Such ten mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

In determining the population of a county, the most recent census by the U.S. Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be used.

16. "Captive finance source" means any finance source that provides automotive-related loans, or purchases retail installment contracts or lease contracts for motor vehicles and is, directly or indirectly, owned, operated or controlled, in whole or in part, by a manufacturer, factory branch, distributor or distributor branch.

17. "Termination" and "terminate" as such terms are used in connection with the removal of a franchise by a franchisor, means a franchisor's proposed termination, cancellation, non-renewal, or rescission.

§ 463. Unfair business practices by franchisors. 1. It shall be unlawful for any franchisor to directly or indirectly coerce or attempt to coerce any franchised motor vehicle dealer:

(a) To order or accept delivery of any motor vehicle or vehicles, appliances, tools, machinery, equipment, parts or accessories therefor or any other commodity or commodities which shall not have been voluntarily ordered by said franchised motor vehicle dealer except any such items required by a recall campaign.

(b) To order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of said motor vehicle as publicly advertised by the franchisor.

(c) To contribute or pay money or anything of value into any cooperative or other advertising program or fund unless such program or fund shall be controlled by a dealer or group of dealers.

(d) To participate in any training program unless such program is expressly limited to specific information necessary to sell or service the models of vehicles the dealer is authorized to sell or service under the dealer's franchise with that franchisor. A franchisor shall not unreasonably require an owner or dealer principal of a dealership to attend any meeting or training program. A franchisor who requires participation in a training program as authorized by this paragraph shall to the largest extent practicable make all reasonable efforts to limit or reimburse the expenses of a dealer incurred in attending such program. Nothing in this paragraph shall be deemed to prohibit any training program located within a dealer's own principal place of business.

(e) To sell, or sell exclusively an extended service contract, extended maintenance plan or similar product, including, but not limited to, gap products offered, endorsed or sponsored by the franchisor by the following means:

(1) by a statement made by the franchisor that failure to do so will substantially and adversely impact the dealer; or

(2) by a provision in a franchise agreement that the dealer sell, or sell exclusively an extended service contract, extended maintenance plan or similar product offered, endorsed or sponsored by the franchisor; or

(3) by measuring the dealer's performance under the franchise based on the sale of extended service contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the manufacturer or distributor; or

(4) by requiring the dealer to exclusively promote the sale of extended service contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the franchisor.

Nothing in this section shall prohibit a franchisor from:

(A) providing incentives to a dealer that makes the voluntary decision to sell or sell exclusively an extended service contract, extended maintenance plan or similar product, including, but not limited to, gap products offered, endorsed or sponsored by the franchisor, or

(B) requiring that a dealer that sells an extended service contract, extended maintenance plan, or similar product that is not offered, endorsed or sponsored by the franchisor, disclose to the consumer the disclosures required under section seven thousand nine hundred five of the insurance law, and a separate statement, acknowledged by the consumer, that the extended service contract, extended maintenance plan or similar product is not offered, endorsed or sponsored by the franchisor, if that is the case.

2. It shall be unlawful for any franchisor, notwithstanding the terms of any franchise contract:

(a) To refuse to deliver in reasonable quantity and within a reasonable time after receipt of a dealer's order to any franchised motor vehicle dealer any vehicle covered by such franchise which is publicly advertised by such franchisor to be available for immediate delivery. Provided, however, the failure to deliver any motor vehicle shall not be considered a violation of this article if such failure be due to acts of God, work stoppages or delays due to strikes or labor difficulties, freight embargoes, shortage of materials, a lack of manufacturing capacity or other causes over which the franchisor shall have no control.

(b) To directly or indirectly coerce or attempt to coerce any franchised motor vehicle dealer to enter into any agreement with such franchisor or officer, agent or other representative thereof, or to do any other act prejudicial to the monetary interests or property rights of said dealer by threatening to terminate said dealer. Provided, however, that good faith notice to any franchised motor vehicle dealer of said dealer's violation of any terms or provisions of such franchise shall not constitute a violation of this article.

(c) (1) To condition the renewal or extension of a franchise on a franchised motor vehicle dealer's substantial renovation of the dealer's place of business or on the construction, purchase, acquisition or rental of a new place of business by the franchised motor vehicle dealer unless the franchisor has advised the franchised motor vehicle dealer in writing of its intent to impose such a condition within a reasonable time prior to the effective date of the proposed date of renewal or extension (but in no case less than one hundred eighty days) and

provided the franchisor demonstrates the need for such change in the place of business and the reasonableness of such demand in view of the need to service the public and the economic conditions existing in the automobile industry at the time such action would be required of the franchised motor vehicle dealer. As part of any such condition the franchisor shall agree, in writing, to supply the dealer with a reasonable quantity and mix of additional new motor vehicles which, as determined by a reasonable analysis of market conditions, are projected to meet the sales levels necessary to support the increased overhead incurred by the franchised motor vehicle dealer by reason of such renovation, construction, purchase, acquisition or rental of a new place of business.

(2) To require a franchised motor vehicle dealer to purchase goods, building materials, or services for the dealer's place of business, including, but not limited to, office furniture, design features, flooring, and wall coverings, from a vendor chosen by the franchisor if goods, building materials, or services of substantially similar quality and design are available from other sources, provided, however, that the goods or building materials are not subject to the franchisor's intellectual property or trademark rights and the franchised motor vehicle dealer has received the franchisor's approval, which approval may not be unreasonably withheld. Nothing in this subdivision shall be construed to allow a franchised motor vehicle dealer to impair or eliminate a franchisor's intellectual property or trademark rights and trade dress usage guidelines, or to impair other intellectual property interests owned or controlled by the franchisor.

(3) Except as necessary to comply with a health or safety law, or to comply with a technology requirement, which is necessary to sell or service a motor vehicle that the franchised motor vehicle dealer is authorized or licensed by the franchisor to sell or service, to require a franchised motor vehicle dealer to construct a new dealer facility or substantially alter or remodel an existing dealer facility before the date that is ten years after the date the construction of the new dealer facility or such alteration or remodeling at that location was completed and shall continue with any successor owner provided such owner has been designated and approved by the franchisor in the franchise agreement, and such construction, alteration or remodeling substantially complied

with the franchisor's brand image standards or plans that the franchisor provided at the time the construction, alteration, or remodeling was completed.

(i) As used in this subparagraph, "substantially alter":

(A) refers to an alteration that has a major impact on the architectural features, characteristics, or integrity of a structure or lot; and

(B) does not include routine maintenance, such as interior painting, reasonably necessary to keep a dealership facility in attractive condition.

(ii) Nothing in this paragraph shall prohibit a franchisor from:

(A) continuing a facility improvement program that is in effect as of the effective date of this paragraph with more than one franchised motor vehicle dealer in the state or to renewing or modifying such program; or

(B) providing lump sum or regularly-scheduled payments to assist a franchised motor vehicle dealer in making a facility improvement, including construction, alteration or remodeling, or installing signage or a franchisor image element;

(C) providing reimbursement to a franchised motor vehicle dealer on reasonable, written terms for a portion of the franchised motor vehicle dealer's cost of making a facility improvement, including construction, alteration or remodeling, the purchase of goods, building materials or services, or installing signage or a franchisor image element.

(4) To deny a franchised motor vehicle dealer a franchisor image element payment, incentive or allowance if the franchised motor vehicle dealer, with the franchisor's approval, began construction, alterations or remodeling intended to comply with the franchisor's image element program before the franchisor substantially changed or terminated the program prior to the program's scheduled ending date provided the dealer is otherwise eligible for program payments and provided that after such substantial change or termination, the compensation payable to the dealer shall be limited to image element payments, incentives or allowances that the dealer would have earned through program's scheduled ending date, provided that the dealer complies with all program requirements, and provided, further, that such program or payments are not otherwise prohibited by law or regulation.

(5) To require or attempt to require a franchised motor vehicle dealer

to establish or maintain exclusive dealership facilities unless justified by current and reasonably expected future economic conditions existing in the dealer's relevant market area at the time the request for exclusive facilities is made; provided that the foregoing shall not restrict the terms and conditions of any agreement for which the dealer has voluntarily accepted valuable consideration separate from the franchised motor vehicle dealer's right to sell and service motor vehicles for the franchisor. The fact that local market share, facing competitive brand dealerships have exclusive dealership facilities shall constitute evidence that current economic conditions may justify the requirement to establish and maintain exclusive dealership facilities.

(6) To require a site control provision regarding the dealer's place of business to survive or continue after the termination of such dealer's franchise if the termination is due to the discontinuation of the line-make that was the subject of the agreement.

(d) (1) To terminate, cancel or refuse to renew the franchise of any franchised motor vehicle dealer except for due cause, regardless of the terms of the franchise. A franchisor shall notify a franchised motor vehicle dealer, in writing, of its intention to terminate, cancel or refuse to renew the franchise of such dealer at least ninety days before the effective date thereof, stating the specific grounds for such termination, cancellation or refusal to renew. In no event shall the term of any such franchise expire without the written consent of the franchised motor vehicle dealer involved prior to the expiration of at least ninety days following such written notice except as hereinafter provided.

(2) A change in ownership of a manufacturer or distributor that contemplates a continuation of that line make in the state shall not directly or indirectly, through actions of any parent of the manufacturer or distributor, subsidiary of the manufacturer or distributor, or common entity cause a termination, cancellation, or nonrenewal of a dealer agreement by a present or previous manufacturer or distributor of an existing agreement unless the manufacturer or distributor offers the new vehicle dealer an agreement substantially similar to that offered to other dealers of the same line make.

(3) The provisions of subparagraphs one and two of this paragraph notwithstanding, a franchisor may terminate its franchise with a

franchised motor vehicle dealer upon at least fifteen days written notice upon the occurrence of any of the following: (i) conviction of a franchised motor vehicle dealer, or one of its principal owners, of a felony or a crime punishable by imprisonment which substantially adversely affects the business of the franchisor, or (ii) the failure of the franchised motor vehicle dealer to conduct its customary sales and service operations for a continuous period of seven business days, except for acts of God or circumstances beyond the direct control of the franchised motor vehicle dealer or when any license required by the franchised motor vehicle dealer is suspended for a period of thirty days or less, or (iii) insolvency of the franchised motor vehicle dealer, or filing of any petition by or against the franchised motor vehicle dealer under any bankruptcy or receivership law.

(e) (1) Any franchised motor vehicle dealer who receives a written notice of termination or a written notice of a franchisor's demand that the dealer substantially renovate an existing place of business, or buy, construct or rent a new place of business as a condition of franchise renewal or extension may have a review of the demand to change the place of business or the threatened termination by instituting an action, as provided in section four hundred sixty-nine of this article. If such action is commenced within four months of receipt of notice, such action shall serve to stay, without bond, the proposed termination or renovation or demand to change the place of business until the final judgment has been rendered in an adjudicatory proceeding or action, as provided in section four hundred sixty-nine of this article.

(2) The issues to be determined in an action commenced pursuant to subparagraph one of this paragraph are whether the franchisor's notice of termination was issued with due cause and in good faith. The burden of proof shall be upon the franchisor to prove that due cause and good faith exist. The franchisor shall also have the burden of proving that all portions of its current or proposed sales and service requirements for the protesting franchised new motor vehicle dealer are reasonable.

The determination of due cause shall be that there exists a material breach by a new motor vehicle dealer of a reasonable and necessary provision of a franchise if the breach is not cured within a reasonable time after written notice of the breach has been received from the

manufacturer or distributor.

(3) The franchisor shall provide notification in writing to the dealer that the dealer has one hundred eighty days to correct dealer sales and service performance deficiencies or breaches and that the franchise is subject to termination under this section if the dealer does not correct those deficiencies or breaches. If the termination is based upon performance of the dealer in sales and service then there shall be no due cause if the dealer substantially complies with the reasonable performance provisions of the franchise during such cure period and, no due cause if the failure to demonstrate such substantial compliance was due to factors which were beyond the control of such dealer.

(f) To intentionally resort to or use any false or misleading advertisements.

(g) To sell or offer to sell any new motor vehicle to any franchised motor vehicle dealer at a lower actual price therefor than the actual price offered to any other franchised motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device including, but not limited to, sales promotion plans or programs which result in such lesser actual price. Provided, however, the provisions of this paragraph shall not apply to sales to a franchised motor vehicle dealer for: (i) resale to any unit of government; or (ii) donation or use by said dealer in a driver education program. This paragraph shall not be construed to prevent the offering of incentive programs or other discounts provided such incentives or discounts are reasonably available to all franchised motor vehicle dealers in this state on a proportionately equal basis.

(h) To sell or offer to sell any new motor vehicle to any person, except a distributor, at a lower actual price therefor than the actual price offered and charged to a franchised motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device which results in such lesser actual price.

(i) To sell or offer to sell parts and/or accessories to any franchised motor vehicle dealer at a lower actual price therefor than the actual price offered to any other franchised motor vehicle dealer for similar parts and/or accessories for use in his own business. Provided, however, that nothing herein contained shall be construed to prevent a manufacturer or distributor, or any agent thereof, from selling to a franchised motor vehicle dealer, who operates and serves as

a wholesaler of parts and accessories, such parts and accessories as may be ordered by such franchised motor vehicle dealer for resale to retail outlets at a lower actual price than the actual price offered a franchised motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories. This paragraph shall not be construed to prevent the offering of incentive programs or other discounts provided the franchisor demonstrates that such incentives or discounts are reasonably available to all franchised motor vehicle dealers in the state on a proportionately equal basis.

(j) To prevent or attempt to prevent, by contract or otherwise, any franchised motor vehicle dealer from changing the capital structure of its dealership, or the means by or through which it finances the operation of its dealership, or finances the acquisition or retention of inventory, provided the dealer at all times meets any capital standards agreed to between the dealer and the franchisor and as applied by the franchisor to all other comparable franchised motor vehicle dealers of the franchisor located within the state.

(k) To unreasonably withhold consent to the sale or transfer of an interest, in whole or in part, to any other person or party by any franchised motor vehicle dealer or any partner or stockholder of any franchised motor vehicle dealer. If such consent to sale or transfer shall be withheld by the franchisor, the franchisor shall provide specific reasons for its withholding of consent within sixty days of receipt of the request for such consent provided such request is accompanied by proper documentation as may reasonably be required by the franchisor. Upon receipt of notice and reasons for the franchisor's withholding of consent, the franchised motor vehicle dealer may within one hundred twenty days have a review of the manufacturer's decision as provided in section four hundred sixty-nine of this article.

(l) To require a franchised motor vehicle dealer to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed under this article, provided that this paragraph shall not be construed to prevent a franchised motor vehicle dealer from entering into a valid release or settlement agreement with a franchisor.

(m) (1) To deny to the surviving spouse or heirs of an individual franchised motor vehicle dealer or of a partner of an unincorporated

franchised motor vehicle dealer or of a stockholder of a corporate franchised motor vehicle dealer the right to succeed to the interest of the decedent in such franchised motor vehicle dealership enterprise or directly or indirectly to interfere with, hinder or prevent the continuance of the business of the franchised motor vehicle dealer by reason of such succession to the interest of the decedent. Provided, however, that the continuation of the business of the franchised motor vehicle dealer shall be conducted under competent management acceptable to the franchisor, whose acceptance shall not be unreasonably withheld.

(2) Notwithstanding the foregoing, in the event the franchised motor vehicle dealer and franchisor have duly executed an agreement concerning succession rights prior to the individual dealer's, partner's or stockholder's death and if such agreement has not been revoked by the franchised motor vehicle dealer, such agreement shall be observed, even if it designates an individual other than the surviving spouse or heirs of the decedent.

(n) To fail to indemnify and hold harmless its franchised motor vehicle dealers against any losses or damages including, but not limited to, court costs and attorneys' fees arising out of actions, claims or proceedings including, but not limited to, those based upon strict liability, negligence, misrepresentation, warranty (expressed or implied) or revocation as described in section 2-608 of the uniform commercial code, where the action, claim or proceeding directly relates to the manufacture, assembly or design of new motor vehicles, parts or accessories or other functions of the franchisor including, without limitation, the selection by the franchisor of parts or components for the vehicle or any damages to merchandise or vehicles occurring in transit where the carrier is designated by the franchisor, notwithstanding the terms of any franchise. If the action, claim or proceeding includes independent allegations against the franchised motor vehicle dealer, the franchisor shall bear only that portion of the costs, fees and judgment which is directly related to the manufacture, assembly or design of the vehicle, parts or accessories, or other function of the franchisor beyond the control of the franchised motor vehicle dealer.

(o) (1) Upon a termination of a franchise by a franchisor or franchised motor vehicle dealer under this article, to refuse to accept

a return of new and unused current model motor vehicle inventory which has been acquired from the franchisor, new and unused noncurrent model motor vehicle inventory which has been acquired from the franchisor within one hundred eighty days of the effective date of the termination; supplies, parts, equipment, signage, special tools, and furnishings purchased from the franchisor or its approved sources. The obligation of the franchisor, except with respect to signage shall be limited to the repurchase of the above property which is unaltered and undamaged, in good and useable condition, and, in the case of supplies, parts and equipment to those items which are currently listed in the franchisor's supplies and parts list. In the case of signage, the franchisor shall be obligated to repurchase any franchisor required signage, purchased within the five years preceding termination and which is in good and useable condition less depreciation as set forth in the Internal Revenue Code of one-fifteenth of the initial cost per year starting the year following the dealer's acquisition of the item. Furthermore, the obligation of the franchisor to repurchase supplies upon a termination, cancellation or nonrenewal by a franchised motor vehicle dealer shall be limited to supplies mandated by the franchisor. Parts eligible for repurchase shall include parts which have been renumbered in the current parts list but which are identical in design and material to the currently numbered part. The return rights afforded the franchised motor vehicle dealer under the provisions of the paragraph shall be in addition to those, if any, provided in the franchise agreement.

(2) The franchisor shall pay fair and reasonable compensation for the above described property upon repurchase. In the case of new motor vehicle inventory, accessories and parts, fair and reasonable compensation shall in no instance be less than the net acquisition price paid by the franchised motor vehicle dealer to the franchisor or its approved sources. Upon a termination of a franchise by a franchisor, within thirty days of such termination, the franchisor shall send to the franchised motor vehicle dealer instructions on the methodology by which the franchised motor vehicle dealer must ship the above described property to the franchisor; the franchisor shall then remit payment for such property to the franchised motor vehicle dealer within sixty days after receipt of such property.

(3) Upon a termination of a franchise by a franchised motor vehicle

dealer where the franchise consists primarily of the distribution and sale of house coaches, the franchisor's repurchase obligations set forth in this paragraph shall not apply.

(4) In addition to any other requirements of this subdivision, in the event a franchisor terminates a franchise due to termination of a line make, the franchisor shall compensate the dealer for any franchisor required facility construction, alterations or remodeling, or construction, alterations or remodeling required for participation in any incentive programs which were completed by the dealer within three years of the date the franchisor announced the termination of the line make. For the purposes of this section, completion shall be deemed to occur at the later of the franchisor's final approval of the construction, alterations, or remodeling or the issuance of a certificate of occupancy. The compensation required under this section shall be in an amount equal to the dealer's cost for the facility upgrades less any assistance provided to the dealer within three years of the date the franchisor announced the termination of the line make by the manufacturer or distributor, and less the amount for depreciation as set forth in Internal Revenue Code of one thirty-ninth of the total initial cost of such construction, alterations, or remodeling per year starting the year following the dealer's completion of the facility construction, alterations, or remodeling.

(5) In addition to the requirements of subparagraph four of this paragraph, in the event a franchisor terminates a franchise due to a termination of a line make, the franchisor shall compensate the dealer in an amount equal to the amount remaining on the terminated dealer's management computer system lease or contract, or one year of lease payments, whichever is less if the dealer management computer system will no longer be utilized as a result of the termination and the franchisor required the dealer to utilize the particular dealer management computer system.

(p) To refuse to repurchase for cost, including transportation charges, a new vehicle which has been substantially damaged by the franchisor or its agent; or to sell or transfer to a franchised motor vehicle dealer a new motor vehicle which has been subjected to repairs with a retail value in excess of five percent of the lesser of the manufacturer's or distributor's suggested retail price where such

repairs are performed after shipment from the franchisor including damage to the vehicle while in transit without so notifying the franchised motor vehicle dealer to whom such new motor vehicle so repaired is sold or transferred. Such notice shall be in writing, advise of such repairs, and be provided prior to the receipt of any payment for such motor vehicle. If the franchisor shall fail to provide such notice, any franchised motor vehicle dealer suffering a loss by reason of such failure shall be entitled to reimbursement from the franchisor who failed to provide such notice.

(q) To provide directly or to grant to any person the right to perform warranty or recall service on any new motor vehicle line other than a house coach line but deny to said person the right to purchase the motor vehicles of that line for resale to consumers in this state as new motor vehicles provided, however, that this paragraph shall not prohibit a franchisor from:

(1) authorizing warranty service by employees of a fleet operator or governmental entity on owned vehicles; or

(2) authorizing such other persons to perform warranty service as the franchisor deems necessary to protect its interests as they may be affected by section one hundred ninety-eight-a of the general business law.

A "fleet operator" shall be required to own for its own use or for the use of others the minimum number of vehicles of the current or preceding model year manufactured or sold by the same franchisor as determined by the standards of such franchisor applied on a general and consistent basis to substantially all fleet operators. Notwithstanding the preceding, a franchisor which withdraws from the United States market shall continue to allow its former franchised motor vehicle dealers to continue servicing and supplying parts, including service and parts supplied under the franchisor's warranty to vehicle owners, for a period of at least five years after such withdrawal from the United States market.

(r) To establish or attempt to establish the actual resale price for any new motor vehicle, part or accessory charged by a franchised motor vehicle dealer in the state, provided, however, nothing contained herein shall prohibit publication of recommended resale prices or historical

information by a franchisor.

(s) To grant a commission to any person other than a franchised motor vehicle dealer within the state involved in the sale of a new motor vehicle by such franchised motor vehicle dealer without said franchised motor vehicle dealer's written consent. This prohibition shall not apply to sales incentive programs for employees of franchised motor vehicle dealers as long as the payments are made by the franchisor to such employees and not charged to the dealer.

(t) To require or attempt to require by the terms of the franchise that any dispute arising out of or in connection with the interpretation, performance or nonperformance of the parties to the franchise or in any way related to the franchise be determined through the application of any other state's laws.

(u) To use any subsidiary corporation, affiliated corporation, captive finance source or any other controlled corporation, partnership, association or person to accomplish what would otherwise be unlawful conduct under this article on the part of the franchisor.

(v) To use a CSI (customer satisfaction index) or other system measuring a customer's degree of satisfaction with a franchised motor vehicle dealer as a sale or service provider unless any such system is designed and implemented in such a way that it is fair and equitable to both the franchisor and the franchised motor vehicle dealer. In any dispute between a franchisor and a franchised motor vehicle dealer the party claiming the benefit of the system as justification for acts in relation to the franchise shall have the burden of demonstrating the fairness and equity of the system both in design and implementation in relation to the pending dispute. Upon request of any franchised motor vehicle dealer, a franchisor shall disclose in writing to such dealer a description of how that system is designed and all relevant information pertaining to such dealer used in the application of that system to such dealer.

(w) To withhold from a franchised motor vehicle dealer a new motor vehicle product of the same line make which the franchised motor vehicle dealer is authorized to sell under its franchise. Provided that the failure to deliver any motor vehicle shall not be considered to be a violation of this article if such failure is due to an act of God, work stoppages or delays due to strikes or labor difficulties, freight

embargoes, shortages of materials, a lack of manufacturing capacity, or other causes over which the franchisor shall have no control. A franchised motor vehicle dealer shall be entitled to sell and service all the manufacturer's new motor vehicles which the franchised motor vehicle dealer is authorized to sell pursuant to the franchise, provided, however, a franchisor may impose reasonable facility, capital, training, tools and parts inventory requirements as a condition to the franchised motor vehicle dealer being permitted to sell such new motor vehicle products. Conditions imposed by the franchisor shall be reasonably applied to all of its franchised motor vehicle dealers. Franchised motor vehicle dealers who are presently parties to a franchise with the franchisor shall be offered the right to sell and service any new motor vehicle product of the same line make owned or generally distributed by such franchisor's franchised motor vehicle dealer within such franchised motor vehicle dealer's designated area of responsibility designated in the franchise agreement before any person not a party to such a franchise for the sale of motor vehicles within such area of responsibility is offered or granted a franchise to sell such new motor vehicle product from a location within such area of responsibility.

(x) To require a franchised motor vehicle dealer to agree to a term or condition in a franchise, or as a condition to the offer, grant or renewal of the franchise, lease or agreement, which:

(1) unless preempted by federal law, requires the franchised motor vehicle dealer to waive trial by jury in actions involving the franchisor; or

(2) unless preempted by federal law, specifies the jurisdiction, venues or tribunals in which disputes arising with respect to the franchise, lease or agreement shall or shall not be submitted for resolution or otherwise prohibits a franchised motor vehicle dealer from bringing an action in a particular forum otherwise available.

(y) Subject to the provisions of paragraph (w) of this subdivision, to sell or offer to sell or lease or offer to lease a motor vehicle other than to a franchised motor vehicle dealer in this state; provided, however, that this paragraph shall not apply to sales or leases of new motor vehicles made by a franchisor to its employees, immediate family members of employees, retirees or immediate family members of retirees

which are hereby authorized notwithstanding the provisions of section four hundred fifteen of this title. Nothing in this paragraph shall prohibit a franchisor from utilizing direct marketing designed to generate leads via mail, phone, or any other medium, provided that leads developed thereby are referred to the franchised motor vehicle dealers in this state and in proximity to the consumer pursuant to a fair and equitable system of allocating such leads or to the franchised motor vehicle dealer as specified by the consumer. The provisions of this paragraph shall not apply to franchisors of house coaches when the franchisor does not have any franchised house coach dealers in this state.

(z) To refuse to allocate, sell, or deliver motor vehicles, to charge back or withhold payments or other things of value for which the franchisee is otherwise eligible, or to take or threaten to take any adverse action against a franchised motor vehicle dealer, in connection with or as a result of any new motor vehicle sold by the franchised motor vehicle dealer and subsequently exported, providing such dealer can demonstrate that he exercised due diligence and that the sale was made in good faith including that the dealer did not know nor reasonably should have known of the purchaser's intention to export the motor vehicle. A franchised motor vehicle dealer which causes a new motor vehicle to be registered in this state or in a foreign state and causes to be collected the appropriate sales and use tax, or that reasonably relied on a franchisor to complete a sale shall be presumed to have exercised good faith and due diligence. Prior to taking an adverse action, including a charge back, as a result of an export, a franchisor shall provide written notice to the franchised motor vehicle dealer of the adverse action, and, if a charge back, the specific amount of the charge back, and the vehicle or vehicles at issue. A dealer shall not be liable for the delivery of any vehicle sold through a franchisor's fleet program for any such delivery in which the sale or lease was not initiated or negotiated by the dealer and its function was to provide delivery on behalf of the franchisor.

(aa) To: (1) sell directly to a franchised motor vehicle dealer or, to or through a franchised motor vehicle dealer in which the franchisor owns any interest or controls the management, directly or indirectly, motor vehicles, parts, warranties, or services at a price that is lower

than the price which the franchisor charges to all other franchised motor vehicle dealers; or

(2) sell directly to a consumer at retail new original equipment manufacturer's parts (OEM) at a price that is lower than the price which the franchisor makes available to franchised motor vehicle dealers; or

(3) otherwise provide a franchised motor vehicle dealer in which the franchisor owns any interest or controls the management, directly or indirectly, goods or services at a price that is lower than the price charged to all other franchised motor vehicle dealers.

(bb) On and after the effective date of this paragraph, to acquire any interest in any additional motor vehicle dealer in this state, with the exception of stock in a publicly held dealer when ownership is passive and for investment purposes only; provided, however, that nothing in this paragraph shall prohibit a franchisor and its affiliates that own an interest in a franchised motor vehicle dealership that operates or is approved to operate, within one hundred twenty days after the effective date of this paragraph, from selling or servicing a new line make of the franchisor or its affiliates that was not distributed in this state as of the effective date of this paragraph. Provided, further, that nothing in this paragraph shall prohibit a franchisor from acquiring any interest in any franchised motor vehicle dealership:

(1) when operating such franchise for a temporary period, not to exceed one year, during the transition from one owner of the motor vehicle dealership to another, provided, however, that such temporary period may be extended once for an additional period not to exceed one year for good cause. Provided that for franchisors of house coaches, the period of temporary ownership of a franchised house coach dealership may be extended in one year increments for good cause shown, except that the aggregate of such extensions shall not exceed five years; or

(2) when operating such franchise temporarily under a plan with an independent individual who is obligated to make a significant investment in the dealership that is subject to loss and has an ownership interest or expects to acquire full ownership in a reasonable period under reasonable terms and conditions, provided that a reasonable period shall be presumed to not exceed eight years; provided, however, that the exception provided in this subparagraph shall not apply to any franchisor, manufacturer, distributor, distributor branch or factory

branch that holds a certificate or registration pursuant to subparagraph (iii) of paragraph f of subdivision seven of section four hundred fifteen of this title.

(cc)(1) To enter into a franchise establishing an additional new motor vehicle dealer or relocating an existing new motor vehicle dealer into the relevant market area of an existing franchise motor vehicle dealer of the same line make unless the franchisor provides notice pursuant to the terms of this subdivision. All dealers that have a relevant market area that encompasses the proposed site shall be entitled to written notice, via certified mail return receipt requested, informing them of the proposed addition or relocation. Any new motor vehicle dealer may institute an action as provided in section four hundred sixty-nine of this article to protest the establishment or relocation of the new motor vehicle dealer following receipt of such notice, or following the end of any appeal procedure provided by the franchisor. In any action brought by the dealer, the franchisor shall have the burden of proving that there exists good cause for any such addition or relocation. Institution of an action pursuant to this subdivision shall serve to stay, without bond, the proposed addition or relocation until a final judgment has been rendered in a proceeding or action as provided in section four hundred sixty-nine of this article.

(2) This subdivision shall not apply to:

(i) the relocation or replacement, other than a replacement of a dealer who has moved within such area, of an existing new motor vehicle dealer within that dealer's own existing relevant market area, provided that the relocation not be to a site within the relevant market area of a licensed new motor vehicle dealer for the same line make of motor vehicle, unless such existing franchise was previously located within such new motor vehicle dealer's relevant market area; or

(ii) the addition of a new motor vehicle dealer or the establishment of a replacement new motor vehicle dealer, other than a replacement of a dealer who has moved within such area, at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line make of new motor vehicle had ceased operating within the previous two years; or

(iii) the relocation of an existing new motor vehicle dealer within two miles of the existing site of the new motor vehicle dealership if

the franchise has been operating on a regular basis from the existing site for a minimum of three years immediately preceding the relocation; or

(iv) the relocation of a new motor vehicle dealer of the same line make if that dealer or replacement dealer is moving further away from a motor vehicle dealer of of the same line make.

(3) In determining whether good cause has been established for not entering into or relocating an additional new motor vehicle dealer for the same line make, there shall be individual findings with respect to the following:

(i) the permanency of the investment of both the existing and proposed additional new motor vehicle dealers;

(ii) growth or decline in population, density of population, and new car registrations in the area;

(iii) effect on the consuming public in the area;

(iv) whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established;

(v) whether the new motor vehicle dealers of the same line make in that area are providing adequate competition and convenient customer care for the motor vehicles of the same line make including the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel;

(vi) whether the establishment of an additional new motor vehicle dealer or relocation of an existing new motor vehicle dealer in the relevant market area would increase competition in a manner beneficial to the long-term public interest;

(vii) the effect on the dealer that proposed to relocate; and

(viii) any other factor which may be deemed material by the finder of fact to the unique facts and circumstances presented.

(dd) To unreasonably prevent or refuse to approve the relocation of a dealership to another site within that dealership's relevant market area. The dealership must provide prior written notice providing the address of the proposed new location and a site plan of the proposed facility. The franchisor must, within sixty days of receipt of such information, grant or deny the dealer's relocation request. Failure to timely deny the request shall be deemed consent to the relocation.

(ee) To fail to reimburse a dealer in full for the actual cost of

providing a loaner vehicle to any customer who is having a vehicle serviced at the dealership if the provision of such a loaner vehicle is required by the franchisor. For the purposes of this paragraph, actual cost shall not exceed the average cost in the dealer's region for the rental of a substantially similar make and model as the vehicle being serviced.

(ff)(1) To modify the franchise of any franchised motor vehicle dealer unless the franchisor notifies the franchised motor vehicle dealer, in writing, of its intention to modify the franchise of such dealer at least ninety days before the effective date thereof, stating the specific grounds for such modification.

(2) For purposes of this paragraph, the term "modify" or "modification" means any change or replacement of any franchise if such change or replacement may substantially and adversely affect the new motor vehicle dealer's rights, obligations, investment or return on investment.

(3) If any franchised motor vehicle dealer who receives a written notice of modification institutes an action within one hundred twenty days of receipt of such notice as provided in section four hundred sixty-nine of this article to have a review of the threatened modification, such action shall serve to stay, without bond, the proposed modification until a final judgment has been rendered in an adjudicatory proceeding or action as provided in section four hundred sixty-nine of this article. A modification is deemed unfair if it is not undertaken in good faith; is not undertaken for good cause; or would adversely and substantially alter the rights, obligations, investment or return on investment of the franchised motor vehicle dealer under an existing franchise agreement. In any action brought by the dealer, the franchisor shall have the burden of proving that such modification is fair and not prohibited.

(gg) To use an unreasonable, arbitrary or unfair sales or other performance standard in determining a franchised motor vehicle dealer's compliance with a franchise agreement. Before applying any sales, service or other performance standard to a franchised motor vehicle dealer, a franchisor shall communicate the performance standard in writing in a clear and concise manner.

(hh) To require that a franchised motor vehicle dealer contribute

monetarily to any program or promotion without first receiving the written consent of the franchised motor vehicle dealer to participate in such program or promotion. For purposes of this paragraph, the written consent specific to the particular program or promotion must be executed, by means of handwritten, typed or electronic signature, within sixty days prior to the start of the particular program or promotion, provided, however, that consent shall not be required to continue participation in a program or promotion to which the dealer has given written consent to renewal, and provided further, that the dealer shall be able to terminate such renewal upon reasonable written notice within thirty days following the start or renewal of the program or promotion.

(ii) To allocate new motor vehicles to a franchised motor vehicle dealer based on a program that differentiates between vehicle sales by a franchised motor vehicle dealer within a territory or geographic area assigned to such dealer and vehicle sales outside of such territory or geographic area.

(jj) To utilize a discriminatory, unreasonable, arbitrary or unfair system of allocation of new motor vehicle inventory. A franchisor shall communicate its system of allocation in writing in a clear and concise manner to all same line-make dealers located in this state.

(kk) To refuse to disclose to any franchised motor vehicle dealer the manner and mode of distribution of vehicles in the franchised motor vehicle dealer's line make within the state, and an explanation of the allocation system, including the methodology used, in a clear and comprehensible form.

2-a. On and after the effective date of this subdivision, if a franchisor notifies a franchised motor vehicle dealer, in writing, of its decision to monitor the continued viability of the dealership, the franchisor shall include in such notice the specific reasons upon which the franchisor's decision is based.

2-b. It shall be unlawful for any franchisor to provide financial information particular to a franchised motor vehicle dealer, including but not limited to, selling prices and sales margins, that has been collected from such franchised motor vehicle dealer to any other franchised motor vehicle dealer including a franchised motor vehicle

dealer in which the franchisor owns any interest or controls, directly or indirectly, the management thereof. Nothing contained in this subdivision shall be deemed to prevent any franchisor from collecting and distributing any such financial information in an aggregate manner provided that the information from any motor vehicle dealer has been combined with the information from one or more franchised motor vehicle dealers such that the financial information from a particular dealer is no longer identifiable to such dealer.

3. In any action or proceeding instituted pursuant to the provisions of this section, there shall be available to the franchisor all of the defenses provided for under section thirteen-b of title fifteen, United States code, known as the Robinson-Patman Act.

§ 464. Obligations of dealers prior to delivery to retail buyers. Every franchisor shall specify in writing the delivery and preparation obligations of its franchised motor vehicle dealers prior to delivery of new motor vehicles to retail buyers.

§ 465. Procedures relating to warranties and sales incentives. 1. Every franchisor shall properly fulfill any warranty agreement and/or franchisor's service contract, including but not limited to all warranty repairs, extended warranty repairs, factory compensated repairs, recalls, diagnostics, parts and other voluntary stop-sell repairs, and shall compensate each of its franchised motor vehicle dealers for all warranty, recall, diagnostic labor operations and parts where applicable in amounts which reflect reasonable compensation for such work. For purposes of this section, reasonable compensation shall be the reasonable labor time allowances defined by the retail labor time guide reasonably utilized by a franchised motor vehicle dealer for non-warranty customer paid labor operations. All warranty claims and/or claims under a franchisor's service contract made by franchised motor vehicle dealers shall be paid within thirty days following their approval. For diagnosis work, parts reimbursement, other than components, systems, fixtures, appliances, furnishings, accessories and

features of a house coach that are designed, used and maintained primarily for nonvehicular residential purposes, and for labor reimbursement, reasonable compensation shall not be less than the price and rate charged by the franchised motor vehicle dealer for like services to non-warranty and/or non-service contract customers. For purposes of this section, the price and rate charged by the franchised motor vehicle dealer for parts may be established by submitting to the franchisor one hundred sequential nonwarranty customer-paid service repair orders or the number of sequential nonwarranty customer-paid service repair orders written within a ninety day period, whichever is less, covering repairs made no more than one hundred eighty days before the submission, and declaring the price and rate, including average markup for the franchised motor vehicle dealer as its reimbursement rate. The reimbursement rate so declared shall go into effect thirty days following the declaration and shall be presumed to be reasonable, however a franchisor may rebut such presumption by showing that such rate so established is unreasonable in light of the practices of all other franchised motor vehicle dealers in the vicinity offering the same line make. The franchised motor vehicle dealer shall not request a change in the reimbursement rate more often than once in each calendar year. In establishing the labor reimbursement rate, the franchisor shall not require a franchised motor vehicle dealer to establish said rate by a methodology, or by requiring information, that is unduly burdensome or time consuming to provide, including, but not limited to, a transaction by transaction calculation. For the purposes of this section, the following parts or types of repairs shall be excluded from the parts and/or labor calculations and the franchisor's reimbursement requirements under this section: (a) parts sold at wholesale; (b) tires; (c) routine maintenance not covered under any retail customer warranty such as fluids, filters and belts not provided in the course of repairs; (d) vehicle reconditioning; and (e) batteries replaced as part of a routine maintenance operation. If the franchisor rejects the declaration or attempts to rebut the declaration because of an error in the dealer's submission, the franchisor shall identify with specificity the reason for rejection and identify the error or errors within the submission. In the event the franchisor rejects or rebuts the dealer's initial declaration, the dealer shall have the opportunity, within sixty days to

resubmit the full and corrected declaration addressing the alleged error or errors identified by the franchisor. The franchisor shall respond within sixty days. The one hundred eighty day requirement for the repair orders shall be stayed from the date of initial submission. In any action or proceeding held pursuant to this subdivision, the franchisor shall have the burden of proving that the rate declared by the dealer was unreasonable as described in this subdivision and that the proposed adjustment of the average percentage markup or rejection of the submission is reasonable pursuant to the provisions of this subdivision. A warranty claim timely made shall not be deemed invalid solely because unavailable parts cause additional use and mileage on the vehicle.

2. All warranty or sales incentive claims shall be either approved or disapproved within thirty days after their receipt. When any such claim is disapproved the franchised motor vehicle dealer shall be notified in writing of its disapproval within said period. Each such notice shall state the specific grounds upon which the disapproval is based. Failure to disapprove a claim within thirty days shall be deemed approval.

3. No franchisor shall conduct an audit or charge back any warranty payment, or any sales, advertising or marketing incentive payment ("incentive payments") or otherwise hold a franchised motor vehicle dealer liable for charges more than one year, or five years in the case of fraud, after the date the franchisor made such payment to the dealer, without providing a notice to a franchised motor vehicle dealer of, or a mechanism that makes available to a franchised motor vehicle dealer, information regarding errors or issues regarding such dealer's warranty, sales, advertising or marketing incentive claims that are the subject of the audit or chargeback. Nothing in this section shall be deemed to grant a dealer the right to access any file held by the manufacturer evaluating such dealer. In connection with a claim for warranty reimbursements, the dealer's failure to document properly one part of a warranty repair that contains more than one part shall not be the sole basis to charge back the entire repair. A manufacturer shall not deny a claim submitted under this section based solely on a dealer's incidental failure to comply with a specific claim processing requirement, a clerical error, or other administrative technicality, provided that the

failure does not call into question the legitimacy of the claim and that the dealer corrects the claim according to franchisor guidelines.

4. A franchisor shall not charge a dealer back subsequent to the payment of a warranty, sales, advertising or marketing incentive claim unless a representative of the franchisor has met in person at the dealership, or by telephone, with an officer or employee of the dealer designated by the dealer and explained in detail the basis for each of the proposed charge backs and thereafter given the dealer's representative a reasonable opportunity at the meeting, or during the telephone call, to explain the dealer's position relating to each of the proposed charge backs. In the event the dealer was selected for audit or review on the basis that some or all of the dealer's claims were viewed as excessive in comparison to average, mean or aggregate data accumulated by the franchisor, or in relation to claims submitted by a group of other franchisees, the franchisor shall, at or prior to the meeting or telephone call with the dealer's representative, provide the dealer with a written statement containing the basis or methodology upon which the dealer was selected for audit or review.

5. A franchisor shall not deny or charge back a payment for warranty work claimed by the dealer unless the franchisor satisfies its burden of proof that the dealer did not make a good faith effort to comply with the reasonable written procedures of the franchisor or that the dealer did not actually perform the work.

6. A franchisor shall not deny or charge back a sales, advertising or marketing incentive payment made to a dealer unless the claim was materially false or fraudulent or the dealer failed to reasonably substantiate the claim in accordance with the manufacturer's reasonable procedures.

7. After all internal dispute resolution processes provided through the franchisor have been resolved, the franchisor shall give notice to the dealer of the final amount of a proposed warranty, sales, advertising or marketing incentive charge back. If the dealer institutes an action pursuant to this article within thirty days of receipt of such

notice, the proposed charge back shall be stayed, without bond, during the pendency of such action and until the final judgment has been rendered in an adjudicatory proceeding or action as provided in section four hundred sixty-nine of this article. The franchisor shall not impose the chargeback, debit the dealer's account, or otherwise seek to obtain all or any part of the chargeback funds from the dealer during the thirty-day period in which the dealer has the opportunity to file an action as set forth above.

§ 466. Unreasonable restrictions. 1. It shall be unlawful for a franchisor directly or indirectly to impose unreasonable restrictions on the franchised motor vehicle dealer relative to transfer, sale, right to renew or termination of a franchise, discipline, noncompetition covenants, site-control (whether by sublease, collateral pledge of lease or otherwise), right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights with respect to its franchise or dealership.

2. It shall be deemed an unreasonable restriction upon the sale or transfer of a dealership for a franchisor (i) directly or indirectly to prevent or attempt to prevent a franchised motor vehicle dealer from obtaining the fair value of the franchise or the fair value of the dealership business as a going concern; or (ii) to refuse to approve the sale or transfer of a dealership due to the fact that the franchised motor vehicle dealer owns, has an investment in, participates in the management of or holds a franchise for the sale or service of another line make of new motor vehicles, or that the franchised motor vehicle dealer has established another franchise in the same dealership facilities for the sale or service of another line make of new motor vehicles prior to the effective date of this paragraph, or the other franchise has been approved in writing by the franchisor.

§ 467. Dealership facilities assistance upon termination, cancellation or nonrenewal. Upon a permitted termination, cancellation or nonrenewal by the franchisor, unless such termination, cancellation or nonrenewal

is for a reason or reasons set forth in subparagraph three of paragraph (d) of subdivision two of section four hundred sixty-three of this article, the franchisor shall assume the obligations for any lease of the dealership facilities or arrange for a new lease of the dealership facilities or pay the dealer the lease payments for one year, whatever is less, or negotiate a lease termination for the dealership facilities at the franchisor's expense. If the facilities are owned by the franchised motor vehicle dealer, the franchisor shall pay such dealer a sum equivalent to the reasonable rental value of the dealership facility for one year, provided the franchised motor vehicle dealer shall mitigate damages in the case of an owned facility.

§ 468. Preservation of consumer protection statutes. Nothing contained herein shall in any way be construed or interpreted to modify, limit or affect the full powers and duties heretofore or hereafter granted to consumer protection agencies created by statute or regulation enacted by state, city, county or local municipalities and the rights of consumers to make complaints thereto, it being the intent of this article to provide for the settlement and/or determination of disputes under the franchised motor vehicle dealer act as between franchisors and franchised motor vehicle dealers as defined herein.

§ 469. Private actions. 1. A franchised motor vehicle dealer who is or may be aggrieved by a violation of this article shall be entitled to request an adjudicatory proceeding, as prescribed in section four hundred seventy-one-a of this article, or in lieu thereof, sue for, and have, injunctive relief and damages in any court of the state having jurisdiction over the parties. In any such judicial action or proceeding, the court may award necessary costs and disbursements plus a reasonable attorney's fee to any party.

2. Whenever a franchise provides for the use of arbitration to resolve a controversy arising out of or relating to such contract, arbitration may be used to settle such controversy only if after such controversy arises all parties to such controversy consent in writing to use

arbitration to settle such controversy.

§ 469-a. Powers of the commissioner. 1. In addition to any other powers and duties of the commissioner set forth in this chapter, the commissioner shall have the power to enforce the provisions of this article, in accordance with section four hundred seventy-one-a of this article.

2. The commissioner shall prescribe such rules and regulations as the commissioner shall deem necessary for the implementation of this section and section four hundred seventy-one-a of this article.

§ 470. Construction of article. The provisions of this article shall be in addition to and not in lieu of those contained in the uniform commercial code.

§ 471. Notice requirement. 1. A dealer shall not display for sale, exchange or sell any new motor vehicle, or any used motor vehicle, that was originally sold by a manufacturer for distribution outside the United States without prominently displaying a label on the vehicle stating that "This vehicle was not sold by the manufacturer for distribution within the United States. It may not have the same standard features, emissions equipment, safety equipment, optional equipment, specifications and warranty, or otherwise be identical to the other motor vehicles which are sold by the manufacturer for distribution in the United States".

2. Any person who violates this section and any person who knowingly aids and abets any such violation of this section shall be liable to any person aggrieved to the extent of any additional margin obtained or obtainable on such purchase and resale.

§ 471-a. Adjudicatory proceedings. 1. Request for an adjudicatory

proceeding. (a) Any franchised motor vehicle dealer who is or may be aggrieved by a violation of this article may request mediation with the franchisor. The request for mediation shall be served by certified mail, or in such manner as the franchisor and franchised motor vehicle dealer have agreed. If the franchisor agrees to mediation, such mediation shall proceed in accordance with the terms as agreed upon by the franchisor and franchised motor vehicle dealer; provided, however, that if the franchisor and franchised motor vehicle dealer have not agreed upon the terms of mediation (i) the franchisor and franchised motor vehicle dealer shall select a mediator within seven days of service by the franchised motor vehicle dealer of the request for mediation; (ii) the mediation shall be completed within twenty-one days of selection of the mediator, or within such period as the franchisor and the franchised motor vehicle dealer shall agree; and (iii) the cost of mediation shall be shared equally by the parties. If the matter is resolved by mediation, a written memorandum of the agreement shall be executed by the mediator, the franchisor, and the franchised motor vehicle dealer.

(b) If the matter has not been resolved by mediation, the franchisor and franchised motor vehicle dealer have not agreed to mediation, or the mediation has not been completed within the period set forth in subparagraph (ii) of paragraph (a) of this subdivision, the franchised motor vehicle dealer may file with the commissioner a request for an adjudicatory proceeding pursuant to this section. The request shall be in writing and contain a short and plain statement of the facts relied upon by the dealer to support a claim that the franchisor has violated one or more specific provisions of this article together with a request for a specific remedy other than damages. The request shall be accompanied by copies of all correspondence between the dealer and the franchisor and other documents relevant to the claims made in the request. The request shall be accompanied by a non-refundable filing fee of two thousand dollars.

(c) A true copy of the request with copies of all documents filed with the request shall be served upon the franchisor at the same time as the request is filed with the commissioner by transmitting such documents in any manner specifically permitted under the terms of the franchise agreement or, if no such manner is specified in such agreement, then by certified mail, return receipt requested, addressed to the officer or

employee of the franchisor from whom the dealer has received correspondence relevant to the claims made in the request. A certificate of service shall accompany the request.

(d) The hearing shall be at such time and place as the commissioner shall prescribe. The commissioner shall mail to the dealer and the franchisor a notice stating the name of the presiding officer assigned to the matter, and the place and time of the hearing. The hearing shall be commenced as soon as practicable, but in no event sooner than sixty days from the date of the notice.

(e) The notice shall be sent by ordinary mail to the address of the dealer or attorney shown in the request and to the address to which the copy of the request was sent as shown in the certificate of service or such other address as the franchisor has designated for receiving such notices. The notice shall advise the franchisor of the right to submit within twenty days of receipt of such notice a short and plain statement of answers to the allegations of the request and of facts on which the franchisor relies in defense of such allegations. Such answering statement shall be mailed to the commissioner or his or her designee and the dealer at addresses shown on the notice.

(f) The dealer may submit within twenty days of receipt of the franchisor's answering statement and additional statement of facts and documentary material only to the extent of answering new matter raised by the franchisor. Except as set forth in paragraph (g) of this subdivision, after receipt by a party of the notice from the commissioner, all correspondence and other communications relating to the dispute shall be with the presiding officer with copies to the opposing party.

(g) In accordance with the rules and regulations prescribed by the commissioner, each party shall disclose to the other all documents or other materials, including those that may have been maintained in electronic form, that the party intends to introduce at the hearing.

2. Hearings and other proceedings and presiding officers. Except as otherwise set forth in this section, hearings and other proceedings authorized under this article shall comply with article three of the state administrative procedure act and shall be presided over by the presiding officer appointed by the commissioner. The presiding officer

shall be admitted to practice as an attorney in the state of New York and shall rule on all motions, procedures and other legal objections.

3. Resolution without a hearing. Either party may request resolution of the dispute without a hearing. A request for a resolution without a hearing shall be accompanied by sufficient information to permit a determination of whether any unresolved material issue of fact exists, and may be accompanied by a legal memorandum. The other party shall have an opportunity to respond. Such a request shall be granted if the presiding officer determines that no unresolved material issue of fact is presented in the matter. No hearing shall be conducted until the request for a resolution without a hearing has been determined.

4. Presiding officer decision. The presiding officer shall render a decision upon the conclusion of the hearing or without a hearing pursuant to subdivision three of this section not later than ninety days after the close of the hearing or the granting of the request for resolution without a hearing. The decision of the presiding officer shall be based on the preponderance of the evidence. The presiding officer shall prepare a decision which shall include: (a) findings of fact; (b) a determination on each charge; and (c) in the event of a determination of a violation of this article, the remedy to be ordered. The decision of the presiding officer shall be deemed the determination of the commissioner.

5. Right of appeal. Any party may file an appeal of a determination made pursuant to this section in accordance with section two hundred sixty-one of this chapter.

6. Litigation costs. In any administrative proceeding pursuant to this section, each party shall bear its own litigation costs and attorneys' fees.

7. Penalties. Any party to a proceeding held pursuant to this section shall comply with the commissioner's decision in such proceeding, unless a stay or extension of the date for compliance is granted by the commissioner or a court of competent jurisdiction. If, after notice to

such party and an opportunity to respond, the commissioner finds that a party has not complied with the commissioner's decision by the designated date of compliance, unless a stay or extension of such date has been granted, the commissioner, in addition to any other enforcement powers the commissioner holds, may assess such party a civil penalty not to exceed one thousand dollars per day of noncompliance. Civil penalties assessed under this section shall be paid to the commissioner for deposit in the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the dealer or franchisor is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments by a court of record.

§ 471-b. Judicial review. A decision of the presiding officer under section four hundred seventy-one-a of this article shall be subject to review by the supreme court in the manner provided by article seventy-eight of the civil practice law and rules.

§ 472. Separability. If any part or provision of this article or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances.

§ 473. Savings clause. Nothing in this article shall prohibit, limit,

restrict or impose conditions on:

1. The business activities (including, without limitation, the dealings with motor vehicle manufacturers and their representatives and affiliates) of any person that is primarily engaged in the business of rental of motor vehicles and industrial and construction equipment and activities incidental to that business provided that (a) any motor vehicles sold by such person are limited to used motor vehicles that have been previously used exclusively and regularly by such person in the conduct of business and used motor vehicles traded in on motor vehicles sold by such person, (b) warranty repairs performed by such person on motor vehicles are limited to those motor vehicles that it owns, previously owned or takes in trade, and (c) motor vehicle financing provided by such person to retail consumers for motor vehicles is limited to vehicles sold by such person in the conduct of business; or

2. The direct or indirect ownership, affiliation or control of a person described in subdivision one of this section.

* ARTICLE 17-A

NON-DRIVER IDENTIFICATION CARD

Section 490. Definition; application for and issuance of identification card.
491. Period of validity of identification card; required fees.
492. Duplicate identification card; change of address.
493. Revocation of identification card.
494. Administrative procedure.
495. Prohibition against transfer.

* NB There are two Art 17-A's

§ 490. Definition; application for and issuance of identification card. 1. Definition. The term "identification card" shall mean and refer to a non-driver identification card issued pursuant to the provisions of this article.

2. Application. (a) Any person to whom a driver's license or learner's permit has not been issued by the commissioner, or whose driver's license or learner's permit is expired, suspended, revoked or surrendered, may make application to the commissioner for the issuance of an identification card. The commissioner shall ensure that space is provided on the application so that the applicant shall register or decline registration in the donate life registry for organ and tissue donations pursuant to section forty-three hundred ten of the public health law and that the following is stated on the application in clear and conspicuous type:

"You must fill out the following section: Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'."

The commissioner of health shall not maintain records of any person who checks "skip this question". Except where the application is made in person or electronically, failure to check a box shall not impair the validity of an application, and failure to check "yes" or checking "skip this question" shall not be construed to imply a wish not to donate. In the case of an applicant under eighteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry, except as otherwise provided pursuant to the provisions of paragraph (b) of subdivision one of section forty-three hundred one of the public health law. Where an applicant has previously consented to make an anatomical gift or registered in the donate life registry, checking "skip this question" or failing to check a box shall not impair that consent or registration.

(b) The identification card shall display the sex designation of M, F, or X as certified by the applicant, with no additional documentation required. The applicant may amend the sex designation of their identification card upon request.

* 2-a. Solicitation for applicant to consent to share certain information with the C.W. Bill Young Cell Transplantation Program established in 42 U.S.C. Section 274k or the national marrow donor program ("registry operator") for the purpose of receiving information about enrolling in the national registry of volunteer bone marrow or

blood cell donors. In addition to the provisions of subdivision two of this section, the commissioner shall ensure that space is provided on the application for an identification card or renewal thereof to advise applicants of the existence of the national registry and to allow for applicants to consent to sharing their information with the registry operator for the purposes of receiving information from the national marrow donor program about enrolling as a potential volunteer bone marrow or blood cell donor on the national registry. Such information related to the consenting applicant shared with the registry operator shall be limited to the first and last name, date of birth, email address, and physical address.

* NB Effective January 1, 2028

3. Issuance. (a) (i) The commissioner shall upon submission of an appropriate application, upon payment of the prescribed fee, and upon being satisfied that the person described is the applicant and that such applicant meets the requirements set forth in subdivision two of this section, issue to such applicant a nontransferable identification card. In addition, the commissioner also shall require that an applicant for an identification card or renewal thereof provide his or her social security number. The commissioner shall provide space so that an applicant may request a notation upon such identification card that he or she is a veteran of the United States armed forces.

(ii) In the case of a person (A) sixty-two years of age or older or (B) a recipient of supplemental security income benefits as defined in section two hundred eight of the social services law, application for a card which expires ten years after the date of issuance shall be made on a form prescribed by the commissioner and shall include proof that such person is sixty-two years of age or older or a recipient of such supplemental security income benefits, as the case may be.

(iii) Notwithstanding any other law, rule or regulation to the contrary, a person who is either (A) sixty-two years of age or older and a recipient of supplemental security income benefits or (B) a recipient of public assistance, as defined in subdivision nineteen of section two of the social services law, supplemental nutrition assistance program benefits, pursuant to section ninety-five of the social services law, or medical assistance, as defined in paragraph (a) of subdivision

thirty-eight of section two of the social services law, and who has not been issued a driver's license, or whose driver's license is expired, or who surrendered his or her driver's license, shall be issued an identification card without the payment of any fee, upon submitting the appropriate application. For persons applying for an identification card pursuant to clause (B) of this subparagraph, such application shall include proof that such person is in receipt of public assistance, supplemental nutrition assistance program benefits, or medical assistance, as the case may be.

(b) The identification card shall contain a distinguishing number or mark and adequate space upon which an anatomical gift, pursuant to article forty-three of the public health law, by the holder may be recorded and shall contain such other information and shall be issued in such form as the commissioner shall determine; provided, however, every identification card or renewal thereof issued to a person under the age of twenty-one years shall have prominently imprinted thereon the statement "UNDER 21 YEARS OF AGE" in notably distinctive print or format. Provided, further, however, that every identification card issued to an applicant who was a member of the armed forces of the United States and (i) received an honorable discharge or was released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, shall, upon his or her request and submission of proof as set forth herein, contain a distinguishing mark, in such form as the commissioner shall determine, indicating that he or she is a veteran. Such proof shall consist of a certificate of release or discharge from active duty including but not limited to a DD Form 214 or other proof satisfactory to the commissioner. The commissioner shall not require fees for the issuance of such identification cards or renewals thereof to persons under twenty-one years of age which are different from the fees required for the issuance of identification cards or renewals thereof to persons twenty-one years of age or over, nor fees to persons requesting a veteran distinguishing mark which are different from fees that would

otherwise be required. Provided, however, that notwithstanding the provisions of section four hundred ninety-one of this article, the commissioner shall not require any fees for the duplication or amendment of an identification card prior to its renewal if such duplication or amendment was solely for the purpose of adding a veteran distinguishing mark to such identification card.

(c) The identification card may also contain the photograph of the holder pursuant to regulations established by the commissioner. Any photograph taken as part of the application procedure for an identification card shall not be a public record.

§ 491. Period of validity of identification card; required fees. 1. Period of validity. An identification card shall be valid from the date of issuance until the date of expiration determined by the commissioner, except that (a) any person sixty-two years of age or older or (b) any recipient of supplemental security income benefits defined in section two hundred eight of the social services law, shall be eligible for a card which expires ten years after the date of issuance. Such dates of issuance and expiration shall be noted on the identification card. However, the prior identification card shall expire on the date of issuance of a renewal of such prior identification card. The commissioner may extend the period of validity of an identification card in a manner and form prescribed by the commissioner.

2. Fees. (a) The fee for an identification card shall be fifty cents for each six months, or any portion thereof of the identification card's validity, except that the fee which shall be charged for the issuance of any original, duplicate, or renewal identification card issued (i) any person sixty-two years of age or older or (ii) any recipient of supplemental security income benefits as defined in section two hundred eight of the social services law, shall be one dollar and fifty cents for a period of ten years.

(b) The fee for a duplicate of an identification card shall be three dollars.

(c) In addition to other fees prescribed herein, an additional fee shall be charged for the issuance of any original, duplicate or renewal

identification card which contains a photograph of the holder. Such fee shall not exceed the additional cost of providing a photograph on an identification card rounded to the next highest twenty-five cents.

(d) There shall be no fee other than a fee prescribed in paragraph (c) of this subdivision for an amended identification card.

(e) In addition to any other fee prescribed in this section, an additional fee of thirty dollars shall be charged for any non-driver identification card, issued to a New York state resident who is a citizen of the United States, that can be used for certain land and sea border crossings pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of Two Thousand Four, Public Law 108-458, or the regulations promulgated thereunder.

3. Waiver of fee. The commissioner may waive the payment of fees required by subdivision two of this section if the applicant is (a) an incarcerated individual in an institution or correctional facility under the jurisdiction of a state department or agency, or (b) a victim of a crime and the identification card applied for is a replacement for one that was lost or destroyed as a result of the crime.

§ 492. Duplicate identification card; change of address. 1. Lost, mutilated or destroyed identification card. In the event of the loss, mutilation or destruction of any identification card, the holder thereof may file with the commissioner proof of the facts with respect to such loss, mutilation or destruction, together with the fee prescribed by law. If the commissioner is satisfied that the applicant is entitled to a duplicate thereof, he shall issue a duplicate of the lost, mutilated or destroyed identification card.

2. Amendment of identification card. Any person holding an identification card which contains any error other than a clerical error made by the issuing agency, with respect to the information contained thereon, shall file an application with the commissioner for an amended identification card to have such error corrected. The commissioner shall require such person to submit proof acceptable to him with respect to the facts, and upon approval of such proof and the surrender of the

prior identification card, the commissioner shall issue an appropriate amended identification card.

3. Change of address. It shall be the duty of every holder of an identification card to notify the commissioner in writing of any change of residence of such holder within ten days after such change occurs.

§ 493. Revocation of identification card. The commissioner may by regulation prescribe when and under what circumstances an identification card shall be revoked or otherwise terminated and be surrendered by the holder thereof. Provided, however, that nothing contained herein shall limit or restrict the right and power of a judge of a court of record in the state of New York to order the surrender of an identification card following a determination that said identification card has been used in connection with a violation of the provisions of section four hundred ninety-five of this article.

§ 494. Administrative procedure. 1. Any application required to be filed under this article shall be in a manner and on a form or forms prescribed by the commissioner. The applicant shall furnish all information required by statute and such other information as the commissioner shall deem appropriate.

2. The commissioner may promulgate regulations with respect to the administration of the provisions of this article.

§ 495. Prohibition against transfer. It shall be unlawful for the owner of any identification card to transfer said card to any other person. Any person who shall transfer such identification card shall be guilty of a violation, and upon conviction thereof, shall be fined not more than two hundred fifty dollars or be imprisoned for not more than fifteen days or both.

ARTICLE 17-B

INTERJURISDICTIONAL PRE-ARRANGED FOR-HIRE VEHICLE OPERATION

Section 498.Interjurisdictional pre-arranged for-hire vehicle operation.

§ 498. Interjurisdictional pre-arranged for-hire vehicle operation. 1. Definitions: When used in this section, the following terms shall have the following meanings:

a. "Driver's license" shall mean a license issued by the department pursuant to article nineteen of this chapter or by a similar regulatory agency of another state.

b. "Licensing jurisdiction" shall mean a city with a population of one million or more, or a county within New York state contiguous to such city, the county of Suffolk, the county of Rockland or the county of Dutchess or the county of Ulster, that requires the issuance of a license, permit, registration, certification or other approval for a vehicle to perform the pre-arranged pick up or drop off of one or more passengers in such jurisdiction for compensation.

c. "Pre-arranged for-hire vehicle" shall mean a motor vehicle, other than a bus, that is used in the business of transporting passengers for compensation on a pre-arranged basis, and operated in such business under a license or permit issued by a licensing jurisdiction. The term "pre-arranged for-hire vehicle" shall apply to vehicles as defined herein regardless of any other provision of local law or rule defining or describing such vehicles by any other terms such as livery, black car, or luxury limousine.

d. "Pre-arranged for-hire vehicle license" shall mean a license, permit, registration, certification or other approval issued by a licensing jurisdiction to the owner of a pre-arranged for-hire vehicle for the purpose of providing pre-arranged transportation for compensation.

e. "Pre-arranged for-hire vehicle driver's license" shall mean a

license, permit or other approval to operate a pre-arranged for-hire vehicle issued by a licensing jurisdiction.

f. "Serious criminal offense" shall mean a conviction of (i) a felony involving the use of a motor vehicle except a felony as described in subparagraph (ii) of this paragraph; (ii) a felony involving manufacturing, distributing or dispensing a drug as defined in section one hundred fourteen-a of this chapter or possession of any such drug with intent to manufacture, distribute or dispense such drug in which a motor vehicle was used; (iii) a violation of subdivision one or two of section six hundred of this chapter; (iv) operating a pre-arranged for-hire vehicle when, as a result of prior violations committed while operating a pre-arranged for-hire vehicle, the driver's license is revoked, suspended, or canceled; (v) causing a fatality through the negligent operation of a pre-arranged for-hire vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide; (vi) homicide; and (vii) a felony for assault, sexual offenses, kidnapping, or burglary.

2. Reciprocity. a. A pre-arranged for-hire vehicle that is licensed to provide pre-arranged transportation for compensation by a licensing jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section shall be authorized to pick up passengers in such jurisdiction for drop off within the same jurisdiction, to pick up passengers in another licensing jurisdiction for drop off within the licensing jurisdiction licensing such pre-arranged for-hire vehicle, to drop off passengers in another licensing jurisdiction who were picked up within the licensing jurisdiction licensing such pre-arranged for-hire vehicle, and to transit other licensing jurisdictions. No other licensing jurisdiction may require a pre-arranged for-hire vehicle providing pre-arranged transportation for compensation, which is licensed by a licensing jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section, to also be licensed by such other licensing jurisdiction or to pay any pre-arranged for-hire vehicle license fee in order to be allowed to pick up or drop off passengers within or to transit such jurisdiction. A licensing

jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section shall provide written confirmation thereof to other licensing jurisdictions, containing information sufficient to establish that such licensing jurisdiction meets all such standards and requirements, and which shall be verifiable by such other licensing jurisdictions. Such written confirmation shall be resubmitted to such other licensing jurisdictions every three years.

b. A pre-arranged for-hire vehicle licensed by a licensing jurisdiction not meeting the standards and requirements set forth in subdivisions three, four and six of this section shall be authorized to pick up and/or drop off passengers in any other licensing jurisdiction only (i) pursuant to the terms of a separate written agreement or memorandum of understanding entered into between such licensing jurisdictions or (ii) if the owner of such vehicle obtains a pre-arranged for-hire vehicle license from such other licensing jurisdiction.

c. Where pre-arranged transportation is provided by a pre-arranged for-hire vehicle licensed by a licensing jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section and such transportation begins with the pick up or the drop off of a passenger outside of such jurisdiction, such pre-arranged for-hire vehicle shall be authorized to temporarily discharge and subsequently pick up such passenger outside the licensing jurisdiction during the course of such transportation, provided no intra-jurisdictional transportation is provided at that time to any other person who is not covered by the pre-arranged transportation agreement.

3. Standards for pre-arranged for-hire vehicle transportation. A licensing jurisdiction shall be deemed to comply with the provisions of this subdivision if the following conditions are met:

a. The licensing jurisdiction requires the suspension of the pre-arranged for-hire vehicle license of a pre-arranged for-hire vehicle owner, or the pre-arranged for-hire vehicle driver's license of a

driver, against whom there is an outstanding judgment or an unpaid civil penalty owed for a violation of this chapter relating to traffic in any other licensing jurisdiction meeting the standards and requirements of this subdivision and subdivisions four and six of this section, or a violation of regulations promulgated by such other licensing jurisdiction duplicating or incorporating by reference any of the provisions of this chapter, until such judgment is satisfied or such civil penalty is paid.

b. The licensing jurisdiction requires that each pre-arranged for-hire vehicle it licenses shall display evidence of a current, valid pre-arranged for-hire vehicle license affixed to the windshield in a form and manner that may be further specified by the regulations of such jurisdiction.

c. The licensing jurisdiction requires the owner of each pre-arranged for-hire vehicle it licenses to maintain, for purposes of insurance or other financial security, coverage in a specified amount per person, payable for those expenses specified in paragraphs one, two and three of subsection (a) of section five thousand one hundred two of the insurance law, and coverage in specified amounts of minimum and maximum liability for bodily injury and death, as said terms are defined in subdivision one of section three hundred seventy of this chapter.

d. The licensing jurisdiction requires (i) each pre-arranged for-hire vehicle it licenses to be inspected no less frequently than every twelve months by an official inspection station licensed pursuant to section three hundred three of this chapter, or, if the pre-arranged for-hire vehicle is registered in another state, by the agency responsible for vehicle registration and inspection in that state, and (ii) each pre-arranged for-hire vehicle to display a valid inspection sticker indicating the date of the last inspection and/or the expiration date, if such stickers are issued by the state of registration.

e. The licensing jurisdiction provides, by means of a dedicated telephone line or read-only access to an electronic database, the following information to other jurisdictions meeting the standards and

requirements set forth in this subdivision and subdivisions four and six of this section: the name of the holder of a pre-arranged for-hire vehicle license; the vehicle identification number of a licensed pre-arranged for-hire vehicle; the date first licensed; the date such licenses were most recently renewed; and all violations issued to each licensee and the disposition of each such violation. Such information obtained by a licensing jurisdiction from other licensing jurisdictions shall be used solely for the enforcement of laws and regulations applicable to the provision of transportation for compensation on a pre-arranged basis.

f. The licensing jurisdiction requires that a pre-arranged for-hire vehicle be driven only by the holder of a driver's license which is valid to operate such motor vehicle in this state.

g. The licensing jurisdiction requires that a pre-arranged for-hire vehicle be driven only by the holder of a pre-arranged for-hire vehicle driver's license.

h. The licensing jurisdiction requires that a pre-arranged for-hire vehicle driver display his or her pre-arranged for-hire vehicle driver's license in such vehicle in a manner clearly visible to passengers or have such license readily available to produce upon the request of a passenger or law enforcement personnel.

i. The licensing jurisdiction requires that a record of each interjurisdictional trip be entered prior to the commencement of such trip in a log maintained and kept readily accessible in the vehicle in a form and manner prescribed by the licensing jurisdiction and produced at the request of any police officer or peace officer acting pursuant to his or her special duties or other enforcement personnel authorized by such jurisdiction. Such record shall be kept for a period of no less than one year after such trip. Failure to produce such a log maintained in the manner prescribed by such jurisdiction when requested by a police officer or other enforcement personnel shall be presumptive evidence of illegal interjurisdictional operation.

j. The licensing jurisdiction requires that the owner of each motor vehicle licensed as a pre-arranged for-hire vehicle hold a valid vehicle registration for such vehicle issued by the department for which a registration fee has been paid pursuant to schedule C of subdivision seven of section four hundred one of this title, or, in the case of a non-resident of this state, a vehicle registration issued by the state of residence.

k. No owner of a vehicle licensed as a pre-arranged for-hire vehicle by a licensing jurisdiction meeting the standards and requirements of this subdivision and subdivisions four and six of this section or any person or business engaged in the for-hire transportation of passengers by motor vehicle that is affiliated with such licensee shall do business within any jurisdiction in which it seeks to operate on an interjurisdictional basis. "Do business" shall mean having a place of business or telephone number in such jurisdiction relating to for-hire transportation of passengers by motor vehicle.

4. Standards for drivers of pre-arranged for-hire vehicles. A licensing jurisdiction shall be deemed to comply with the provisions of this subdivision if it requires the following as conditions of licensure of pre-arranged for-hire vehicle drivers:

a. The pre-arranged for-hire vehicle driver is fingerprinted and his or her criminal history obtained from the department of criminal justice services.

b. The licensing jurisdiction adopts criteria pursuant to which an applicant for a new or renewal pre-arranged for-hire vehicle driver's license shall be denied, and a pre-arranged for-hire vehicle driver's license shall be suspended or revoked, upon conviction of the applicant or licensee for a serious criminal offense, subject to applicable laws, including, but not limited to, article twenty-three-A of the correction law.

c. The licensing jurisdiction provides by regulation for the continuing review of the driving record of every pre-arranged for-hire

vehicle driver licensed by such jurisdiction, as reflected in the number and type of convictions accumulated on the driver's license issued to such driver. Such regulation shall provide for the mandatory suspension for a thirty-day period of a pre-arranged for-hire vehicle driver's license upon the accumulation of a specified number and type of conviction on such person's driver's license within a fifteen-month period, and the mandatory revocation of a pre-arranged for-hire vehicle driver's license upon the accumulation of an additional number of convictions of a specified number and type on such person's driver's license within a fifteen-month period.

d. The licensing jurisdiction requires that an applicant for a pre-arranged for-hire vehicle driver's license submit to drug testing, and that licensed pre-arranged for-hire vehicle drivers be required to submit to additional drug testing upon each application for renewal of such person's pre-arranged for-hire vehicle driver's license, and additional drug testing such that each licensee shall submit to such drug testing no less often than once each year; and that any applicant who tests positive for drugs or intoxicating liquors shall be denied a pre-arranged for-hire vehicle driver's license, and the pre-arranged for-hire vehicle driver's license of any licensee who tests positive for drugs or intoxicating liquors shall be revoked after notice and an opportunity to be heard. Such drug test shall be administered by a person or entity holding the requisite permit from the New York state department of health. Individual test results and any related medical information about such applicant or licensee shall be confidential, shall not be disclosed except to the applicant or licensee or his or her representative, and shall not be entered or received as evidence at any civil, criminal or administrative trial, hearing or proceeding other than an administrative trial, hearing or proceeding for the denial or revocation of the pre-arranged for-hire vehicle driver's license as set forth in this paragraph. No person, other than an applicant or licensee who is the subject of such records to whom such records are disclosed, may redisclose such records.

e. The licensing jurisdiction requires that every individual applying for a pre-arranged for-hire vehicle driver's license must submit proof

of completion of a state-approved defensive driving course no more than six months prior to the date of application. The licensing jurisdiction shall further require that any individual renewing a pre-arranged for-hire vehicle driver's license must submit proof of completion of a state-approved defensive driving course no more than three years prior to the date of the renewal application.

5. On-street inspections. The enforcement authorities of a licensing jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section may conduct on-street inspections of all vehicles operating as pre-arranged for-hire vehicles within such jurisdiction. A pre-arranged for-hire vehicle owner may be ordered by such licensing jurisdiction to repair or replace such vehicle where it appears that it no longer meets the reasonable standards for safe operation prescribed by regulations of such jurisdiction. Upon failure of the pre-arranged for-hire vehicle owner to comply with such an order within ten days after service thereof, the recognition of such owner's pre-arranged for-hire vehicle license shall be suspended by the licensing jurisdiction. Provided, however, that this subdivision shall not impair such authority to conduct on-street inspections of pre-arranged for-hire vehicles as may otherwise exist.

6. Notification. A licensing jurisdiction meeting the standards and requirements set forth in this subdivision and subdivisions three and four of this section shall, upon both the issuance and disposition of a summons issued in such jurisdiction to a pre-arranged for-hire vehicle licensed in another jurisdiction, notify such other jurisdiction of such issuance and disposition.

ARTICLE 17-C

METROPOLITAN COMMUTER TRANSPORTATION DISTRICT SUPPLEMENTAL REGISTRATION FEE

Section 499. Definition.
499-a. Metropolitan commuter transportation district supplemental registration fee.
499-b. Collection of supplemental fee.

499-c. Calculation of supplemental registration fee.
499-d. Deposit and disposition of revenue from supplemental fee.

§ 499. Definition. For the purposes of this article "metropolitan commuter transportation district" shall mean the area of the state included in the district created and governed by section twelve hundred sixty-two of the public authorities law.

§ 499-a. Metropolitan commuter transportation district supplemental registration fee. Registrants residing in the metropolitan commuter transportation district shall upon the registration or renewal of a motor vehicle be charged a supplemental registration fee to be paid to the commissioner or his or her agent in accordance with the provisions of this article.

§ 499-b. Collection of supplemental fee. All registrants of motor vehicles who reside in the metropolitan commuter transportation district shall pay to the commissioner or his or her agent the supplemental registration fee provided for in this article upon registration or renewal of motor vehicles subject to registration fees pursuant to the following sections of this chapter: paragraph a of subdivision six of section four hundred one; schedules A, B, C, E, F, G, I and K of subdivision seven of section four hundred one; paragraph a of subdivision eight of section four hundred one; paragraph a of subdivision five of section four hundred ten; and section four hundred eleven-b.

§ 499-c. Calculation of supplemental registration fee. The supplemental registration fee to be charged pursuant to section four hundred ninety-nine-b of this article, shall be calculated at a rate of twenty-five dollars per annum for each year or portion of a year that such registration is valid.

§ 499-d. Deposit and disposition of revenue from supplemental fee. The commissioner shall deposit daily all funds derived from the collection of the supplemental fee established pursuant to this article with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this article during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the corporate transportation account of the metropolitan transportation authority special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

TITLE V

DRIVERS' LICENSES

Article 18. Application of this title.
19. Licensing of drivers.
19-A. Special requirements for bus drivers.
19-B. Special requirements for commercial motor carriers.
20. Suspension and revocation.

21. Alcohol and drug rehabilitation program.
21-A. Restricted use licenses.
21-B. Medical advisory board.
21-C. Certificates for escort vehicles.

ARTICLE 18

APPLICATION OF THIS TITLE

Section 500. Application of this title.

§ 500. Application of this title. Except as otherwise expressly provided in this chapter, this title shall be exclusively controlling:

a. Upon the licensing and regulation of drivers; and

b. On their use of public highways.

ARTICLE 19

LICENSING OF DRIVERS

Section 501. Drivers' licenses and learners' permits.
501-a. Definitions.
501-b. Additional restrictions on certain learners' permits and drivers' licenses.
502. Requirements for licensing.
502-a. Determination of weights applicable to license requirements.
503. Period of validity of drivers' licenses, learners' permits and applications; required fees.
504. Form of license.
505. Duplicate and amended licenses and permits; change of address.
506. Reexamination of licensees.
507. Miscellaneous provisions.
507-a. Special requirements for for-hire vehicle motor carriers and drivers; drugs and alcohol.

508. Administrative procedures.
509. Violations.

§ 501. Drivers' licenses and learners' permits. 1. The commissioner shall issue classified drivers' licenses as provided in this article. Any such license shall be valid only for the operation of the type of vehicles specified for each such class of license but shall not be valid for the operation of any type of vehicle for which an endorsement is required by this section or regulations promulgated hereunder unless the license contains such endorsement and shall be subject to any restrictions contained thereon.

2. Driver license classifications, endorsements and restrictions and exceptions. (a) License classifications. (i) Class A. Such license shall be valid to operate any motor vehicle or any combination of vehicles except it shall not be valid to operate a motorcycle other than a class B or C limited use motorcycle.

(ii) Class B. Such license shall be valid to operate any vehicle or combination of vehicles which may be operated with a class E license and shall be valid to operate any motor vehicle or any such vehicle, other than a tractor, towing a vehicle having a GVWR of not more than ten thousand pounds and shall be valid to operate any altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver except it shall not be valid to operate a motorcycle other than a class B or C limited use motorcycle.

(iii) Class C. Such license shall be valid to operate any vehicle or combination of vehicles which may be operated with a class E license and shall be valid to operate any motor vehicle with a GVWR of not more than twenty-six thousand pounds and any such vehicle towing another vehicle with a GVWR of not more than ten thousand pounds except it shall not be valid to operate a tractor or a motorcycle other than a class B or C limited use motorcycle.

(iv) Class D. Such license shall be valid to operate any passenger or limited use automobile or any truck with a GVWR of not more than twenty-six thousand pounds or any such vehicle towing a vehicle with a

GVWR of not more than ten thousand pounds, or any such vehicle towing another vehicle with a GVWR of more than ten thousand pounds provided such combination of vehicles has a GCWR of not more than twenty-six thousand pounds, or any personal use vehicle with a GVWR of not more than twenty-six thousand pounds or any such vehicle towing a vehicle with a GVWR of not more than ten thousand pounds, except it shall not be valid to operate a tractor, a motorcycle other than a class B or C limited use motorcycle, a vehicle used to transport passengers for hire or for which a hazardous materials endorsement is required, or a vehicle defined as a bus in subdivision one of section five hundred nine-a of this title. Such license also shall be valid to operate a three-wheeled motor vehicle that has two wheels situated in the front and one wheel in the rear, has a steering mechanism and seating which does not require the operator to straddle or sit astride, is equipped with safety belts for all occupants and is manufactured to comply with federal motor vehicle safety standards for motorcycles including, but not limited to, 49 C.F.R. part 571.

(v) Class E. Such license shall be valid to operate only vehicles which may be operated with a class D license, except that in addition it shall be valid to operate any such motor vehicle, other than a vehicle defined as a bus in subdivision one of section five hundred nine-a of this chapter, used to transport up to fourteen passengers for hire and other than an altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver.

(vi) Class DJ. Such license shall be valid to operate only vehicles which may be operated with a class D license by a person under eighteen years of age, except it shall not be valid to operate a motor vehicle with an unladen weight or a GVWR of more than ten thousand pounds or any motor vehicle towing another vehicle with an unladen weight or GVWR of more than three thousand pounds. Such license shall automatically become a class D license when the holder becomes eighteen years of age.

(vii) Class M. Such license shall be valid to operate any motorcycle, or any motorcycle, other than a limited use motorcycle, towing a trailer. Such license also shall be valid to operate a three-wheeled motor vehicle that has two wheels situated in the front and one wheel in the rear, has a steering mechanism and seating which does not require

the operator to straddle or sit astride, is equipped with safety belts for all occupants and is manufactured to comply with federal motor vehicle safety standards for motorcycles including, but not limited to, 49 C.F.R. part 571.

(viii) Class MJ. Such license shall be valid to operate any motorcycle or limited use motorcycle by a person under eighteen years of age. Such license shall automatically become a class M license when the holder becomes eighteen years of age.

(b) Endorsements. The following endorsements shall be required to operate vehicles as set forth herein. In addition the commissioner by regulation may provide for further endorsements.

(i) T endorsement. Shall be required to operate double and triple trailers.

(ii) H endorsement. Shall be required to transport hazardous materials as defined in section one hundred three of the hazardous materials transportation act, public law 93-633, title I, when the vehicle transporting such materials is required to be placarded under the hazardous materials regulation, 49 CFR part 172, subpart F or is transporting any quantity of material listed as a select agent or toxin in 42 CFR part 73. An applicant for a commercial driver's license in this state who wishes to transport hazardous materials must obtain a New York state hazardous materials endorsement even if such applicant holds a valid hazardous materials endorsement issued by another state. A farm vehicle shall be exempt from the requirement for such endorsement when transporting hazardous materials within one hundred fifty miles of the person's farm. However, a separate non-commercial endorsement shall be required for such exempted transportation. In order to obtain such endorsement, the license holder must submit fingerprints for purposes of a criminal history record check pursuant to subdivision six of this section.

(iii) N endorsement. Shall be required to operate tank vehicles.

(iv) P endorsement. Shall be required to operate a bus as defined in sections one hundred four and five hundred nine-a of this chapter, any altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver or any motor vehicle with a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds which is designed

to transport passengers in commerce. For the purposes of this subparagraph the gross vehicle weight of a vehicle shall mean the actual weight of the vehicle and the load.

(v) X endorsement. Shall be an endorsement combining H and N endorsements.

(vii) Personal use vehicle endorsement. Shall be required to operate a personal use vehicle or a combination of personal use vehicles which may not be operated with a class C, D or E license. The identification and scope of any such endorsement or endorsements shall be as prescribed by regulation of the commissioner, but no such endorsement shall permit the operation of a rental truck towing a vehicle with a GVWR of more than ten thousand pounds.

(viii) W endorsement. Shall be required to operate a tow truck.

(ix) Metal coil endorsement. Shall be required to operate any commercial motor vehicle, as defined in subdivision four of section five hundred one-a of this article, carrying metal coils. The identification and scope of such endorsement shall be as prescribed by regulation of the commissioner.

(x) S endorsement. Shall be required to operate a school bus, as defined in section one hundred forty-two of this chapter, which is designed or used to transport fifteen or more passengers.

(c) Restrictions. Notwithstanding the foregoing provisions of this subdivision, the operation of vehicles may be limited by a restriction or restrictions placed on a license. The following restrictions may be issued by the commissioner based upon the representative vehicle in which the road test was taken, or if the license is issued based on driving experience, the vehicle in which the experience was gained. In addition, the commissioner may by regulation provide for additional restrictions based upon other types of vehicles or other factors deemed appropriate by the commissioner.

(i) A restriction prohibiting the operation of a vehicle with air brakes.

(ii) A restriction limiting the operation of a combination of vehicles to truck-trailer combinations.

(iii) A restriction limiting operation to vehicles of not more than a specified GVWR.

(d) Exceptions. (i) Notwithstanding the foregoing provisions of this

subdivision, a motor vehicle or combination of vehicles, other than a motorcycle, that is (A) a military vehicle operated by a member of the armed forces, or (B) a police vehicle or fire vehicle during its use in an emergency operation as defined in section one hundred fourteen-b of this chapter, or in the performance of official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations, or (C) a vehicle owned and identified as being owned by the state or a political subdivision thereof or an ambulance service as defined in subdivision two of section three thousand one of the public health law or a voluntary ambulance service as defined in subdivision three of such section and used to provide emergency medical service as defined in section three thousand one of the public health law, or to perform official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations, may be operated with any class license other than a class DJ, M or MJ license. For the purposes of this paragraph the term "member of the armed forces" shall include active duty military personnel; members of the reserve components of the armed forces; members of the national guard on active duty, including personnel on full time active guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. The term shall not include United States reserve technicians. Notwithstanding the provisions of section one hundred fourteen-b of this chapter, for the purposes of this subparagraph, the term "emergency operation" shall include returning from emergency service.

(ii) Notwithstanding the foregoing provisions of this subdivision, a motor vehicle or combination of vehicles which is designed and primarily used for purposes other than the transportation of persons or property which is excluded from the definition of commercial motor vehicle pursuant to the provisions of subparagraph (iv) of paragraph (a) of subdivision four of section five hundred one-a of this chapter may be operated with any class license other than a class DJ, M or MJ license.

3. Restrictions on use of class DJ and class MJ licenses. A class DJ

or class MJ license shall permit the holder to operate a vehicle in accordance with the following restrictions:

(a) in the counties of Nassau and Suffolk:

(i) for the purpose of driving to and from a state-approved cooperative work-study educational program, or to or from an approved program for credit in a post-secondary institution, or to or from a state-approved registered evening high school or while engaged in farm employment, or to or from an approved driver education course; or

(ii) from five o'clock in the morning to nine o'clock in the evening, to and from a place of business where the holder is regularly employed, or when accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher, or driving school instructor.

(b) in all other areas of the state, except for the city of New York:

(i) from five o'clock in the morning to nine o'clock in the evening; or

(ii) from nine o'clock in the evening to five o'clock in the morning when going to or from school, or to or from a place of business where the holder is employed on a regularly scheduled basis, or when accompanied by a duly licensed parent, guardian or one in a position of loco parentis to the licensee.

(c) in the city of New York, driving shall be prohibited.

(d) for the purpose of this subdivision, the term "school" shall mean instruction, education or training licensed or approved by a department or agency of the state or training conducted by the armed forces of the United States except it shall not include extra-curricular activities or social events for which scholastic credits are not given.

(e) any person operating a motor vehicle to or from school or to or from a place of business as authorized by this subdivision must possess documentation signed by such person's instructor or employer. The commissioner shall, by regulation, prescribe the form and content of such documentation.

4. Probationary licenses. Any driver's license, other than a class DJ and class MJ license, shall be considered probationary until the expiration of six months following the date of issuance thereof, and thereafter as provided in section five hundred ten-b of this title, but

this subdivision shall not apply to renewals of a license, or, unless so provided by the commissioner, to a license for which a road test has been waived by the commissioner.

5. Learners' permits. (a) The commissioner shall issue learner's permits as provided in this article. Such permit shall be valid only

(i) for the operation of a motor vehicle of a type which could be operated by the holder of the class of license for which application is being made;

(ii) when the holder is under the immediate supervision and control of a person at least twenty-one years of age who holds a license valid in this state for the operation of the type of vehicle being operated; and

(iii) in accordance with any additional restrictions prescribed by the commissioner and noted on such permit.

(b) In addition to the restrictions contained in paragraph (a) of this subdivision, a learner's permit issued to a person applying for a class DJ or class MJ license shall be subject to the restrictions contained in section five hundred one-b of this article and shall not be valid for the operation of any motor vehicle:

(i) within the city of New York, except that the holder of such permit may operate a motor vehicle within the city of New York from five o'clock in the morning to nine o'clock in the evening when such person is under the immediate supervision and control of a person at least twenty-one years of age who is such holder's parent, guardian, person in a position of loco parentis, driver education teacher for the purpose of certification pursuant to section eight hundred six-a of the education law or driving school instructor for the purpose of certification pursuant to subdivision seven-a of section three hundred ninety-four of this chapter and such vehicle is equipped with dual controls as prescribed by the commissioner;

(ii) in the counties of Nassau and Suffolk, except that the holder of such permit may operate a motor vehicle within the counties of Nassau and Suffolk from five o'clock in the morning to nine o'clock in the evening when such person is under the immediate supervision and control of a person at least twenty-one years of age who is such holder's licensed parent, guardian, person in a position of loco parentis, driver education teacher for the purpose of certification pursuant to section

eight hundred six-a of the education law, or driving school instructor for the purpose of certification pursuant to subdivision seven-a of section three hundred ninety-four of this chapter, or a person at least twenty-one years of age who holds a license valid in this state for the operation of the type of vehicle being operated, for the purpose of certification pursuant to subdivision two of section five hundred two of this article, and who has been designated by such holder's parent, guardian or person in a position of loco parentis to accompany such holder, as evidenced by a written statement to that effect;

(iii) from nine o'clock in the evening to five o'clock in the morning, unless the holder of such permit is under the immediate supervision and control of a person at least twenty-one years of age who is such holder's licensed parent, guardian, person in a position of loco parentis, driver education teacher for the purpose of certification pursuant to section eight hundred six-a of the education law, or driving school instructor for the purpose of certification pursuant to subdivision seven-a of section three hundred ninety-four of this chapter.

(c) The restrictions contained in paragraphs (a) and (b) of this subdivision shall apply to a learner's permit which has been issued to a person who has made application for a class M or class MJ license, except that the required supervising driver need exercise only general supervision and control over the learner as prescribed by regulation of the commissioner when the learner is operating a motorcycle, provided, however, a person who possesses a learner's permit and who has made application for a class M or class MJ license, shall not operate a motorcycle while there is another person on such motorcycle unless such other person possesses a valid class M license.

6. H endorsement criminal history record check. Upon receipt of an application and completion of all other requirements imposed by the commissioner for an H endorsement to permit the operator to transport hazardous materials as defined in section one hundred three of the hazardous materials transportation act, public law 93-633, title I, when the vehicle transporting such materials is required to be placarded under the hazardous materials regulation, 49 CFR part 172, subpart F, or is transporting any quantity of material listed as a select agent or

toxin in 42 CFR part 73, the commissioner, subject to the rules and regulations of the division of criminal justice services, shall initiate a criminal history record check of the person making the application. The commissioner shall obtain from each applicant two sets of fingerprints and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The commissioner shall promptly transmit such fingerprints and fees to the division of criminal justice services for processing. The federal bureau of investigation and the division of criminal justice services shall forward such criminal history record, if any, to the commissioner. All such criminal history records processed and sent pursuant to this section shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than authorized personnel, unless otherwise authorized by law. No cause of action against the commissioner, the department or the division of criminal justice services for damages related to the dissemination of criminal history records pursuant to this section shall exist when the commissioner, department or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such information by the division of criminal justice services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the executive law. The consideration of such criminal history record by the commissioner shall be subject to article twenty-three-A of the correction law. The commissioner shall review such criminal history record for a conviction within the previous ten years for: (i) any violent felony offense, as defined in section 70.02 of the penal law; or (ii) any felony defined in article one hundred twenty, one hundred twenty-five, one hundred thirty, one hundred thirty-five, one hundred forty, one hundred forty-five, one hundred fifty, one hundred fifty-five, one hundred sixty, one hundred seventy, one hundred seventy-five, two hundred, two hundred ten, two hundred twenty, two hundred twenty-one, two hundred forty, two hundred sixty-five, four hundred sixty, four hundred seventy, four hundred eighty-five, or four hundred ninety of the penal law or section

fifty-three-e of the railroad law; or (iii) any offense in another jurisdiction which includes all of the essential elements of such offenses described in paragraphs (i) and (ii) of this subdivision and for which a sentence of imprisonment for more than one year was authorized in the other jurisdiction and is authorized in this state, regardless of whether such sentence was imposed; or any of the following federal offenses: improper transportation of a hazardous material, as defined in 49 U.S.C. 46312, conveying false information or threats, as defined in 49 U.S.C. 46507, espionage, as defined in 18 U.S.C. 793, 794 or 3077, sedition, as defined in 18 U.S.C. 2384, 2385 or section 4 of the subversive activities control act of 1950, treason, as defined in 18 U.S.C. 2381 or conspiracy or solicitation, as defined in 18 U.S.C. 371 or 373; or (iv) an attempt or conspiracy to commit any of the offenses specified in paragraphs (i), (ii), or (iii) of this subdivision. In calculating such ten year period, any period of time during which the person was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration. After receipt of a criminal history record from the division of criminal justice services, if any, and review of such record, the commissioner shall promptly notify the applicant whether he or she will be granted an H endorsement based upon the applicant's criminal history and promptly notify such applicant of the determination and the procedure for requesting a hearing pursuant to this subdivision. If the commissioner denies an applicant an H endorsement based either in whole or in part on such applicant's criminal record, the commissioner must notify such applicant of the basis for such denial, and afford such applicant notice and an opportunity to be heard and offer proof in opposition to such determination. If the applicant requests a hearing to contest the commissioner's determination, such hearing must be requested no later than thirty days after the applicant's receipt of the determination and must be scheduled by the commissioner within sixty days of such request. Upon request and pursuant to the rules and regulations of the division of criminal justice services, any applicant may obtain, review and seek correction of his or her criminal history record.

§ 501-a. Definitions. The following terms when used in this article and in articles twenty and thirty-one of this chapter, shall have the following meanings:

1. Commercial driver's license or CDL. A class A or B driver's license or a class C driver's license which bears an H, P or X endorsement, which licenses contain the legend commercial driving license or CDL thereon and which is issued in accordance with the commercial motor vehicle safety act of 1986, public law 99-570, title XII, and this article which authorizes a person to operate a commercial motor vehicle and an altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver.

2. Gross vehicle weight rating or GVWR. The weight of a vehicle consisting of the unladen weight and the maximum carrying capacity recommended by the manufacturer of such vehicle. The GVWR of a combination of vehicles (commonly referred to as the "Gross Combination Weight Rating" or GCWR) is the GVWR of the power unit plus the GVWR of each vehicle in the combination.

3. Hazardous materials. Any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

4. Commercial motor vehicle. (a) A motor vehicle or combination of vehicles designed or used to transport passengers or property:

(i) which has a GVWR of more than twenty-six thousand pounds; or

(ii) which has a GCWR of more than twenty-six thousand pounds, including any towed unit with a GVWR of more than ten thousand pounds; or

(iii) designed or used to transport fifteen or more passengers, in addition to the driver; or

(iv) defined as a bus in subdivision one of section five hundred nine-a of this chapter; or

(v) of any size, other than a farm vehicle operated within one hundred fifty miles of the operator's farm, used in the transportation of materials found by the United States secretary of transportation to be hazardous under the hazardous materials transportation act and which requires the motor vehicle transporting such materials to be placarded under the hazardous materials regulation, 49 CFR part 172, subpart F or is transporting any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

(b) However, a commercial motor vehicle shall not include: (i) a personal use vehicle or a covered farm vehicle or a combination of such vehicles; (ii) any motor vehicle or combination of motor vehicles operated by a member of the armed forces for military purposes; (iii) a police vehicle or fire vehicle, or combination of such vehicles during its use in an emergency operation as defined in section one hundred fourteen-b of this chapter, or in the performance of official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations; (iv) a vehicle or combination of vehicles owned and identified as being owned by the state or a political subdivision thereof or an ambulance service as defined in subdivision two of section three thousand one of the public health law or a voluntary ambulance service as defined in subdivision three of such section and used to provide emergency medical service as defined in section three thousand one of the public health law, or to perform official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations; or (v) a vehicle or combination of vehicles which is designed and primarily used for purposes other than the transportation of persons or property and which is operated on a public highway only occasionally for the purpose of being transported to a construction or off-highway site at which its primary purpose is to be performed except as may otherwise be specifically provided by regulation of the commissioner. For the purposes of this paragraph, the term "member of the armed forces" shall include active duty military personnel; members of the reserve components of the armed forces; members of the national guard on active duty, including personnel on full time active guard duty, personnel on part-time national guard training, and national guard

military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. The term shall not include United States reserve technicians. Notwithstanding the provisions of section one hundred fourteen-b of this chapter, for the purposes of this paragraph, the term "emergency operation" shall include returning from emergency service.

5. Representative vehicle. The type of motor vehicle or combination of vehicles specified by regulation of the commissioner that an applicant for a driver's license must operate during a road test in order to receive a specific class of license or endorsement.

6. Tank vehicle. Any commercial motor vehicle designed to transport any liquid or gaseous material within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Such term shall not include a commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer.

7. Personal use vehicle. A vehicle constructed or altered to be used for recreational purposes which is exclusively used to transport family members and/or personal possessions of such family members for non-business recreational purposes by the operator, or a rental truck which is exclusively used to transport personal possessions of the person who has rented the truck for non-business purposes.

8. Covered farm vehicle. (a) A vehicle or combination of vehicles registered in this state, which (i) displays a covered farm vehicle designation issued by the commissioner, (ii) is operated by the owner or operator of a farm or ranch, or an employee or family member of an owner or operator of a farm or ranch, (iii) is used to transport agricultural commodities, livestock, machinery or supplies to or from a farm or ranch, (iv) is not used in for-hire motor carrier operations, exclusive of operation by a tenant pursuant to a crop share farm lease agreement

to transport the landlord's portion of the crops under that agreement; and (v) is not used for the transportation of hazardous materials.

(b) A covered farm vehicle with a gross vehicle weight or gross vehicle weight rating, whichever is greater, of more than twenty-six thousand pounds may only be operated within one hundred fifty air miles of the farm or ranch.

(c) The commissioner shall, by regulation, designate an endorsement or endorsements for the operation of covered farm vehicles with a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds. Such endorsement or endorsements shall be required to operate such a covered farm vehicle or combination of covered farm vehicles. The identification and scope of such endorsement or endorsements shall, at a minimum, include a distinction between the operation of a covered farm vehicle having a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds and the operation of a combination of covered farm vehicles having a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds.

(d) For the purposes of this subdivision, the gross vehicle weight of a vehicle shall mean the actual weight of the vehicle and the load.

§ 501-b. Additional restrictions on certain learners' permits and drivers' licenses. 1. In addition to the restrictions contained in subdivision five of section five hundred one of this article, no holder of a class DJ or class MJ learner's permit shall:

(a) operate a motor vehicle with any front seat occupants other than the supervising driver;

(b) operate a motor vehicle unless every occupant of such vehicle is properly restrained by a safety belt or child safety seat in accordance with the provisions of subdivision three-a of section twelve hundred twenty-nine-c of this chapter;

(c) operate a motor vehicle with more than one passenger who is under the age of twenty-one and who is not a member of such holder's immediate family, provided, however, that the provisions of this paragraph shall not apply when such holder is accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education

teacher or driving school instructor;

(d) be eligible for issuance of a class DJ, MJ, D or M license unless such permit has been valid for at least six months. Any time period in which such class DJ or MJ learner's permit has been suspended or revoked shall not be counted in determining the length of time that such learner's permit has been valid.

2. In addition to the restrictions contained in subdivision three of section five hundred one of this article, no holder of a class DJ or class MJ license shall operate a motor vehicle:

(a) unless every occupant of such vehicle is properly restrained by a safety belt or child safety seat in accordance with the provisions of subdivision three-a of section twelve hundred twenty-nine-c of this chapter; and

(b) with more than one passenger who is under the age of twenty-one and who is not a member of such holder's immediate family, provided, however, that the provisions of this paragraph shall not apply when such holder is accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor.

§ 502. Requirements for licensing. * 1. Application for license. Application for a driver's license shall be made to the commissioner. The fee prescribed by law may be submitted with such application. The applicant shall furnish such proof of identity, age, and fitness as may be required by the commissioner. With respect to a non-commercial driver's license or learner's permit which does not meet federal standards for identification, in addition to the acceptable proofs of age and identity approved by the commissioner as of January first, two thousand nineteen, acceptable proof of identity shall also include, but not be limited to, a valid, unexpired foreign passport issued by the applicant's country of citizenship (which shall also be eligible as proof of age), a valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid foreign driver's license that includes a photo image of the applicant and which is unexpired or expired for less than twenty-four

months of its date of expiration, as primary forms of such proof. Nothing contained in this subdivision shall be deemed to preclude the commissioner from approving additional proofs of identity and age. The license shall display the sex designation of M, F, or X as certified by the applicant, with no additional documentation required. The applicant may amend the sex designation of their driver's license upon request. Upon amendment of the sex designation, the change shall be made consistent through all affiliated records within the control of the department. The commissioner may also provide that the application procedure shall include the taking of a photo image or images of the applicant in accordance with rules and regulations prescribed by the commissioner. In addition, the commissioner also shall require that the applicant provide such applicant's social security number or, in lieu thereof, with respect to an application for a non-commercial driver's license or learner's permit which does not meet federal standards for identification, an affidavit signed by such applicant that they have not been issued a social security number. The commissioner also shall provide space on the application so that the applicant may request a notation upon such license that such applicant is a veteran of the United States armed forces, and space on the application so that the applicant may request a notation upon such license that he or she is a veteran of the United States armed forces, and space on the application so that the applicant may register in the New York state organ and tissue donor registry under section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type:

"You must fill out the following section: Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'."

The commissioner of health shall not maintain records of any person who checks "skip this question". Except where the application is made in person or electronically, failure to check a box shall not impair the validity of an application, and failure to check "yes" or checking "skip this question" shall not be construed to imply a wish not to donate. In the case of an applicant under eighteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration

in the donate life registry, except as otherwise provided pursuant to the provisions of paragraph (b) of subdivision one of section forty-three hundred one of the public health law. Where an applicant has previously consented to make an anatomical gift or registered in the donate life registry, checking "skip this question" or failing to check a box shall not impair that consent or registration. In addition, an applicant for a commercial driver's license who will operate a commercial motor vehicle in interstate commerce shall certify that such applicant meets the requirements to operate a commercial motor vehicle, as set forth in public law 99-570, title XII, and title 49 of the code of federal regulations, and all regulations promulgated by the United States secretary of transportation under the hazardous materials transportation act. In addition, an applicant for a commercial driver's license shall submit a medical certificate at such intervals as required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations relating to medical certification and in a manner prescribed by the commissioner. For purposes of this section and sections five hundred three, five hundred ten-a, and five hundred ten-aa of this title, the terms "medical certificate" and "medical certification" shall mean a form substantially in compliance with the form set forth in Part 391.43(h) of title 49 of the code of federal regulations. Upon a determination that the holder of a commercial driver's license has made any false statement, with respect to the application for such license, the commissioner shall revoke such license.

* NB Effective until January 1, 2028

* 1. Application for license. Application for a driver's license shall be made to the commissioner. The fee prescribed by law may be submitted with such application. The applicant shall furnish such proof of identity, age, and fitness as may be required by the commissioner. With respect to a non-commercial driver's license or learner's permit which does not meet federal standards for identification, in addition to the acceptable proofs of age and identity approved by the commissioner as of January first, two thousand nineteen, acceptable proof of identity shall also include, but not be limited to, a valid, unexpired foreign passport issued by the applicant's country of citizenship (which shall also be eligible as proof of age), a valid, unexpired consular identification

document issued by a consulate from the applicant's country of citizenship, or a valid foreign driver's license that includes a photo image of the applicant and which is unexpired or expired for less than twenty-four months of its date of expiration, as primary forms of such proof. Nothing contained in this subdivision shall be deemed to preclude the commissioner from approving additional proofs of identity and age. The license shall display the sex designation of M, F, or X as certified by the applicant, with no additional documentation required. The applicant may amend the sex designation of their driver's license upon request. Upon amendment of the sex designation, the change shall be made consistent through all affiliated records within the control of the department. The commissioner may also provide that the application procedure shall include the taking of a photo image or images of the applicant in accordance with rules and regulations prescribed by the commissioner. In addition, the commissioner also shall require that the applicant provide such applicant's social security number or, in lieu thereof, with respect to an application for a non-commercial driver's license or learner's permit which does not meet federal standards for identification, an affidavit signed by such applicant that they have not been issued a social security number. The commissioner also shall provide space on the application so that the applicant may request a notation upon such license that such applicant is a veteran of the United States armed forces, and space on the application so that the applicant may request a notation upon such license that such person is a veteran of the United States armed forces, and space on the application so that the applicant may register in the New York state organ and tissue donor registry under section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type:

"You must fill out the following section: Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'."

The commissioner of health shall not maintain records of any person who checks "skip this question". Except where the application is made in person or electronically, failure to check a box shall not impair the validity of an application, and failure to check "yes" or checking "skip

this question" shall not be construed to imply a wish not to donate. In the case of an applicant under eighteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry, except as otherwise provided pursuant to the provisions of paragraph (b) of subdivision one of section forty-three hundred one of the public health law. Where an applicant has previously consented to make an anatomical gift or registered in the donate life registry, checking "skip this question" or failing to check a box shall not impair that consent or registration. Additionally, the commissioner shall ensure that space is provided on the application for a driver's license or renewal thereof to advise applicants of the existence of the C.W. Bill Young Cell Transplantation Program established in 42 U.S.C. Section 274k or the national marrow donor program ("registry operator") and to allow for applicants to consent to sharing their information with the registry operator for the purposes of receiving information from the registry operator about enrolling as a potential volunteer bone marrow or blood cell donor on the national registry. Such information related to the consenting applicant shared with the registry operator shall be limited to first and last name, date of birth, email address, and physical address. In addition, an applicant for a commercial driver's license who will operate a commercial motor vehicle in interstate commerce shall certify that such applicant meets the requirements to operate a commercial motor vehicle, as set forth in public law 99-570, title XII, and title 49 of the code of federal regulations, and all regulations promulgated by the United States secretary of transportation under the hazardous materials transportation act. In addition, an applicant for a commercial driver's license shall submit a medical certificate at such intervals as required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations relating to medical certification and in a manner prescribed by the commissioner. For purposes of this section and sections five hundred three, five hundred ten-a, and five hundred ten-aa of this title, the terms "medical certificate" and "medical certification" shall mean a form substantially in compliance with the form set forth in Part 391.43(h) of title 49 of the code of federal regulations. Upon a determination that the holder of a commercial driver's license has made any false statement, with respect

to the application for such license, the commissioner shall revoke such license.

* NB Effective January 1, 2028

2. Age. * (a) An applicant for a commercial driver's license which contains an H or an X endorsement or which is valid for operation in interstate commerce shall be at least twenty-one years of age.

* NB Repealed upon certain conditions (see chapter 618 of 2021 § 4)

* (a) An applicant for a class A license or for a commercial driver's license which contains an H or an X endorsement or which is valid for operation in interstate commerce shall be at least twenty-one years of age.

* NB Effective if amendments made by chapter 618 of 2021 are repealed

* (b) Except as provided in paragraph (a) of this subdivision an applicant for a class A, B, C or E license shall be at least eighteen years of age.

* NB Repealed upon certain conditions (see chapter 618 of 2021 § 4)

* (b) Except as provided in paragraph (a) of this subdivision an applicant for a class B, C or E license shall be at least eighteen years of age.

* NB Effective if amendments made by chapter 618 of 2021 are repealed

(c) An applicant for a class D or M license shall be at least eighteen years of age, except that an application shall be accepted if the applicant is at least seventeen years of age and submits acceptable proof of successful completion of a driver education course, approved by the state education department and the commissioner, and proof of completion of the minimum hours of supervised driving as required in paragraph (d) of this subdivision.

* (d) An applicant for a class DJ or MJ license shall be at least sixteen years of age and such applicant must submit written consent to the issuance of such license by the applicant's parent or guardian. Upon receipt of withdrawal of such consent, any class DJ or MJ license, learner's permit or license application shall be cancelled. No class DJ or MJ license shall be issued unless the applicant presents, at the time of the road test administered pursuant to paragraph (b) of subdivision four of this section, a written certification by the applicant's parent or guardian: (i) that such applicant has operated a motor vehicle for no

less than fifty hours, at least fifteen hours of which shall be after sunset, under the immediate supervision of a person as authorized pursuant to subparagraph (ii) of paragraph (a) or paragraph (b) of subdivision five of section five hundred one of this article, a driver education teacher pursuant to section eight hundred six-a of the education law or a driving school instructor pursuant to subdivision seven-a of section three hundred ninety-four of this chapter; and (ii) if such applicant completed an internet delivered pre-licensing course approved by the commissioner pursuant to article twelve-d of this chapter, that such applicant participated throughout such course.

* NB Effective until June 30, 2030

* (d) An applicant for a class DJ or MJ license shall be at least sixteen years of age and such applicant must submit written consent to the issuance of such license by the applicant's parent or guardian. Upon receipt of withdrawal of such consent, any class DJ or MJ license, learner's permit or license application shall be cancelled. No class DJ or MJ license shall be issued unless the applicant presents, at the time of the road test administered pursuant to paragraph (b) of subdivision four of this section, a written certification by the applicant's parent or guardian that such applicant has operated a motor vehicle for no less than fifty hours, at least fifteen hours of which shall be after sunset, under the immediate supervision of a person as authorized pursuant to subparagraph (ii) of paragraph (a) or paragraph (b) of subdivision five of section five hundred one of this article, a driver education teacher pursuant to section eight hundred six-a of the education law or a driving school instructor pursuant to subdivision seven-a of section three hundred ninety-four of this chapter.

* NB Effective June 30, 2030

3. Application for learner's permit. An application for a learner's permit shall be included in the application for a license. A learner's permit shall be issued in such form as the commissioner shall determine but shall not be issued unless the applicant has successfully passed the vision test required by this section and the test set forth in paragraph (a) of subdivision four of this section with respect to laws relating to traffic and ability to read and comprehend traffic signs and symbols and has satisfactorily completed any course required pursuant to paragraph

(a) of subdivision four of this section. Upon acceptance of an application for a learner's permit the commissioner shall provide the applicant with a driver's manual which includes but is not limited to the laws relating to traffic, the laws relating to and physiological effects of driving while ability impaired and driving while intoxicated, the law for exercising due care to avoid colliding with a parked, stopped or standing vehicle pursuant to section eleven hundred forty-four-a of this chapter, explanations of traffic signs and symbols and such other matters as the commissioner may prescribe.

4. Examinations. (a) (i) Upon submission of an application for a driver's license, the applicant shall be required to take and pass a test, or submit evidence of passage of a test, with respect to the laws relating to traffic, the laws relating to driving while ability is impaired and while intoxicated, under the overpowering influence of "Road Rage", "Work Zone Safety" awareness, "Motorcycle Safety" awareness and "Pedestrian and Bicyclist Safety" awareness as defined by the commissioner, "School Bus Safety" awareness, the law relating to exercising due care to avoid colliding with a parked, stopped or standing authorized emergency vehicle or hazard vehicle pursuant to section eleven hundred forty-four-a of this chapter, the ability to read and comprehend traffic signs and symbols and such other matters as the commissioner may prescribe, and to satisfactorily complete a course prescribed by the commissioner of not less than four hours and not more than five hours, consisting of classroom driver training and highway safety instruction or the equivalent thereof. Such test shall include at least seven written questions concerning the effects of consumption of alcohol or drugs on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from violations of section eleven hundred ninety-two of this chapter, prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs. Such test shall include one or more written questions concerning the devastating effects of "Road Rage" on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from assaulting, threatening or interfering with the lawful conduct of another person legally using the roadway. Such test shall include one or more questions concerning the potential dangers to

persons and equipment resulting from the unsafe operation of a motor vehicle in a work zone. Such test may include one or more questions concerning motorcycle safety. Such test may include one or more questions concerning the law for exercising due care to avoid colliding with a parked, stopped or standing vehicle pursuant to section eleven hundred forty-four-a of this chapter. Such test may include one or more questions concerning school bus safety. Such test may include one or more questions concerning pedestrian and bicyclist safety. Such test shall be administered by the commissioner. The commissioner shall cause the applicant to take a vision test and a test for color blindness. Upon passage of the vision test, the application may be accepted and the application fee shall be payable.

(ii) The commissioner shall promulgate rules and regulations establishing eligibility standards for the taking and passing of knowledge tests in other than written form.

(b) Upon successful completion of the requirements set forth in paragraph (a) of this subdivision which shall include an alcohol and drug education component as described in paragraph (c) of this subdivision, a "Road Rage" awareness component as described in paragraph (c-1) of this subdivision, a "Work Zone Safety" awareness component as described in paragraph (c-2) of this subdivision, a "Motorcycle Safety" awareness component as described in paragraph (c-3) of this subdivision, a "School Bus Safety" awareness component as described in paragraph (c-4) of this subdivision, and a "Pedestrian and Bicyclist Safety" awareness component as described in paragraph (c-5) of this subdivision, the commissioner shall cause the applicant to take a road test in a representative vehicle of a type prescribed by the commissioner which shall be appropriate to the type of license for which application is made, except that the commissioner may waive the road test requirements for certain classes of applicants. Provided, however, that the term "representative vehicle" shall not include a three-wheeled motor vehicle that has two wheels situated in the front and one wheel in the rear, has a steering mechanism and seating which does not require the operator to straddle or sit astride, is equipped with safety belts for all occupants and is manufactured to comply with federal motor vehicle safety standards for motorcycles including, but not limited to, 49 C.F.R. part 571. The commissioner shall have the power to establish a program to

allow persons other than employees of the department to conduct road tests in representative vehicles when such tests are required for applicants to obtain a class A, B or C license. If she chooses to do so, she shall set forth her reasons in writing and conduct a public hearing on the matter. She shall only establish such a program after holding the public hearing.

(c) Alcohol and drug education component. The commissioner shall provide in the pre-licensing course, set forth in paragraph (b) of this subdivision a mandatory component in alcohol and drug education of not less than two hours as a prerequisite for obtaining a license to operate a motor vehicle. The purpose of the component is to educate prospective licensees on the effects that ingestion of alcohol and other drugs have on a person's ability to operate a motor vehicle. The commissioner shall establish a curriculum for the alcohol and drug education component which shall include but not be limited to: instruction describing the hazards of driving while impaired or intoxicated; the penalties for alcohol related motor vehicle violations including sanctions set forth in the penal law that apply to homicides and assaults arising out of the operation of a motor vehicle while intoxicated and those sanctions set forth in the vehicle and traffic law relating to driving while intoxicated; and the medical, biological and physiological effects of the consumption of alcohol and their impact on the operation of a motor vehicle.

(c-1) "Road Rage" awareness component. The commissioner shall provide in the pre-licensing course, set forth in paragraph (b) of this subdivision a mandatory component in "Road Rage" awareness education as a prerequisite for obtaining a license to operate a motor vehicle. The purpose of the component is to educate prospective licensees on the effects that the development and expression of "Road Rage", as defined by the commissioner, have on a person's ability to operate a motor vehicle. The commissioner shall establish a curriculum for the "Road Rage" component which shall include but not be limited to: instruction describing the hazards of driving and exiting the vehicle while under the influence of "Road Rage"; the penalties for "Road Rage"-related motor vehicle or other violations including sanctions set forth in the penal law that apply to homicides and assaults arising out of the operation of a motor vehicle while expressing "Road Rage", and any

sanctions set forth in law relating to driving while under the influence of "Road Rage"; and the medical, biological and physiological effects of the development and expression of "Road Rage", and their impact on the operation of a motor vehicle. The commissioner is charged with the responsibility for defining the term "Road Rage", as used in this paragraph, in consultation with law enforcement personnel, medical professionals, representatives of the court system, highway safety officials, and any other group that the commissioner believes can contribute to a comprehensive statement of the issue.

(c-2) "Work Zone Safety" awareness component. (i) The commissioner shall provide in the pre-licensing course, set forth in paragraph (b) of this subdivision, a mandatory component in "Work Zone Safety" awareness education as a prerequisite for obtaining a license to operate a motor vehicle. The purpose of the component is to educate prospective licensees on the potential dangers to construction workers, construction equipment operators and operators of motor vehicles in a highway work zone. For the purposes of this paragraph, the term "work zone" shall include "work area" as defined by section one hundred sixty of this chapter, and "restricted highway" as authorized in section sixteen hundred twenty-five of this chapter.

(ii) The commissioner shall establish a curriculum for the "Work Zone Safety" component which shall include but not be limited to: instruction describing the potential hazards of driving through a work zone, whether or not work, maintenance or other related construction is being undertaken therein, and information on the provisions of law relating to driving within a work zone and sanctions for violations of such provisions, including speeding in a work zone.

(iii) In developing such curriculum, the commissioner shall consult with the commissioner of transportation, the superintendent of the state police, representatives of the highway construction industry, representatives of highway construction workers, highway safety officials, and any other group that the commissioner believes can contribute to a comprehensive presentation of the issue.

(c-3) "Motorcycle Safety" awareness component. The commissioner shall provide in the pre-licensing course, set forth in paragraph (b) of this subdivision, a mandatory component in "Motorcycle Safety" awareness education as a prerequisite for obtaining a license to operate a motor

vehicle. The purpose of the component is to educate prospective licensees on the potential dangers to persons operating motorcycles on the roadway.

(c-4) "School Bus Safety" awareness component. (i) The commissioner shall provide in the pre-licensing course, set forth in paragraph (b) of this subdivision, a mandatory component in "School Bus Safety" awareness education as a prerequisite for obtaining a license to operate a motor vehicle. The purpose of the component is to educate prospective licensees on the dangers of passing a school bus in violation of section eleven hundred seventy-four of this chapter, to reduce the number of such incidents, and to promote school bus safety.

(ii) The commissioner shall establish a curriculum for the "School Bus Safety" awareness component which shall include, but shall not be limited to, an overview of traffic laws governing overtaking and passing school buses, including but not limited to section eleven hundred seventy-one and section eleven hundred seventy-four of this chapter.

(iii) In developing such curriculum, the commissioner shall consult with the commissioner of transportation.

(c-5) "Pedestrian and Bicyclist Safety" awareness component. (i) The commissioner shall provide in the pre-licensing course, set forth in paragraph (b) of this subdivision, a mandatory component in "Pedestrian and Bicyclist Safety" awareness education as a prerequisite for obtaining a license to operate a motor vehicle. The purpose of the component is to educate prospective licensees on the potential dangers to pedestrians, bicyclists, and other non-motorized vehicles.

(ii) The commissioner shall establish a curriculum for the "Pedestrian and Bicyclist Safety" awareness component which shall include but not be limited to: an overview of traffic laws governing motor vehicle operators' duty to exercise due care with respect to pedestrians and bicyclists, including but not limited to understanding pedestrians' and bicyclists' needs and reduced visibility, respecting pedestrians' and bicyclists' rights of way, safe operation near pedestrians and bicyclists, including children and blind, deaf, elderly and disabled pedestrians, bicycle lanes as defined in section one hundred two-a of this chapter, safely overtaking a pedestrian or a bicyclist, the dangers of distracted driving, driving at appropriate reduced speeds when special hazards exist with respect to pedestrians and bicyclists such as

weather or highway conditions, safely turning, stopping, standing, and parking, motor vehicle operators' obligations to comply with article twenty-two of this chapter, and traffic control devices and markings, roadway designs and traffic calming measures related to pedestrians and bicyclists.

(iii) In developing such curriculum, the commissioner shall consult with the commissioner of transportation, the superintendent of the state police, the commissioners of transportation and police of the city of New York, other local law enforcement and highway safety officials, medical professionals, bicycle and pedestrian safety advocates, and any other group that the commissioner believes can contribute to a comprehensive presentation of the issue.

(d) (i) The commissioner shall make available for distribution upon registration at each location where the pre-licensing course will be given (1) instructional handbooks outlining the content of the entire curriculum of the pre-licensing course including the information required to be included in the course pursuant to paragraphs (c), (c-1), (c-2), (c-3), (c-4) and (c-5) of this subdivision, and (2) information as to how a person may register in the New York state organ and tissue donor registry under section forty-three hundred ten of the public health law.

(ii) The commissioner shall also provide for the additional training of the instructors necessary for the competent instruction of the alcohol and drug education, "Road Rage" awareness, "Work Zone Safety" awareness, "Motorcycle Safety" awareness, "School Bus Safety" awareness and "Pedestrian and Bicyclist Safety" awareness subject matters of the pre-licensing course.

(e) The commissioner shall make available to each applicant for a commercial driver's license instructional handbooks outlining the requirements necessary to qualify for such license, and containing a discussion of the offenses which will result in disqualification from operating a commercial motor vehicle as defined in section five hundred one-a of this chapter. Such handbooks shall be available in both English and Spanish language versions.

(f) The commissioner shall promulgate such rules and regulations as are necessary to carry out the provisions of this section.

(g) The commissioner may, in his discretion, waive the requirement for

passage of a test with respect to the laws relating to traffic, the laws relating to driving while ability is impaired and while intoxicated and the ability to read and comprehend traffic signs and symbols, and the requirement for completion of the course set forth in paragraph (a) of this subdivision for applicants who hold a valid or renewable driver's license issued by another jurisdiction or the United States government.

* (h) Course completion certificate fee. The fee for a course completion certificate provided by the department to an entity that is approved by the commissioner to offer the pre-licensing course, required by this subdivision, for issuance by such entity to students upon their completion of such pre-licensing course shall be one dollar. Such fee shall be paid by such entity and shall not be charged to a person who takes the course in any manner. The provisions of this paragraph shall not apply to a pre-licensing course established pursuant to article twelve-D of this chapter.

* NB Effective until June 30, 2030

* (h) Course completion certificate fee. The fee for a course completion certificate provided by the department to an entity that is approved by the commissioner to offer the pre-licensing course, required by this subdivision, for issuance by such entity to students upon their completion of such pre-licensing course shall be one dollar. Such fee shall be paid by such entity and shall not be charged to a person who takes the course in any manner.

* NB Effective June 30, 2030

5. Issuance of license. (a) Upon successful completion of the requirements set forth in subdivision four of this section, and upon payment of the fee prescribed by law, the commissioner shall issue an appropriate license to the applicant, except that the commissioner may refuse to issue such license

(i) if the applicant is the holder of a currently valid or renewable license to drive issued by another state or foreign country unless the applicant surrenders such license, or

(ii) if such issuance would be inconsistent with the provisions of section five hundred sixteen of this chapter.

(b) The commissioner shall, with respect to the issuance of a hazardous materials endorsement, comply with the requirements imposed

upon states pursuant to sections 383.141 and 1572.13 of title 49 of the code of federal regulations.

(c) The commissioner shall not issue a commercial driver's license to a person while such person would be subject to disqualification from operating a commercial motor vehicle for any cause set forth in the commercial motor vehicle safety act of nineteen hundred eighty-six, public law 99-570, title XII and regulations promulgated thereunder. In addition, the commissioner shall suspend a commercial driver's license for the period of time in which such driver is determined to constitute an imminent hazard and is disqualified pursuant to 49 C.F.R 383.52.

* (d) (i) The commissioner shall not issue a class A commercial driver's license to a person who is eighteen, nineteen or twenty years old unless, in addition to meeting the requirements of this chapter with respect to the issuance of commercial driver's licenses, such person submits, in a form prescribed by the commissioner, proof of successful completion of the commercial driver's license (CDL) class A young adult training program established pursuant to subparagraph (ii) of this paragraph and proof of completion of the minimum hours of supervised driving required by such subparagraph. The commissioner shall place an "intrastate only" restriction on any class A commercial driver's license issued to a person who is eighteen, nineteen or twenty years old and such restriction shall remain until such person turns twenty-one years of age.

(ii) The commissioner, in consultation with the commissioner of transportation, shall establish and implement a commercial driver's license (CDL) class A young adult training program for young adult class A commercial driver's license applicants. The commissioner shall provide for the requirements and criteria of such training program which shall include the entry-level driver training requirements prescribed by the federal motor carrier safety administration under appendices A, C, D and E of part 380 of title 49 of the code of federal regulations, as may be amended from time to time, and include no less than three hundred hours of behind-the-wheel training under the immediate supervision and control of an experienced driver. For purposes of this paragraph, the following terms shall have the following meanings:

(A) "Young adult" shall mean an individual who is eighteen, nineteen or twenty years old.

(B) "Experienced driver" shall mean an individual who:

(1) is not less than twenty-one years of age;

(2) holds a valid class A commercial driver's license which is not suspended, revoked or cancelled pursuant to the provisions of this chapter or rules and regulations promulgated thereunder and has held such commercial driver's license for at least two years;

(3) has not, for at least a one-year period: been the operator of a motor vehicle involved in an accident reportable to the federal motor carrier safety administration, or been the operator of a commercial motor vehicle involved in an accident reportable to the commissioner, or been convicted of a serious traffic violation, or been convicted of any violation of title VII of this chapter for which the commissioner assesses points, or been disqualified from operating a commercial motor vehicle pursuant to this chapter or rules and regulations promulgated thereunder; and

(4) has a minimum of one year of experience driving, in commerce, a commercial motor vehicle which can only be operated with a class A commercial driver's license.

(C) "Serious traffic violation" shall have the same meaning as such term is defined in subdivision four of section five hundred ten-a of this chapter.

* NB Repealed upon certain conditions (see chapter 618 of 2021 § 4 and chapter 58 of 2022 Pt. GGG § 3)

6. Renewal of license. (a) A license issued pursuant to subdivision five of this section shall be valid until the expiration date contained thereon, unless such license is suspended, revoked or cancelled. Such license may be renewed by submission of an application for renewal, the fee prescribed by law, proofs of prior licensing, fitness and acceptable vision prescribed by the commissioner, the applicant's social security number or, in lieu thereof, with respect to an application for a non-commercial driver's license or learner's permit which does not meet federal standards for identification, an affidavit signed by such applicant that they have not been issued a social security number, and if required by the commissioner, a photo image of the applicant in such numbers and form as the commissioner shall prescribe. In addition, an applicant for renewal of a license containing a hazardous material

endorsement shall pass an examination to retain such endorsement. The commissioner shall, with respect to the renewal of a hazardous materials endorsement, comply with the requirements imposed upon states by sections 383.141 and 1572.13 of title 49 of the code of federal regulations. A renewal of such license shall be issued by the commissioner upon approval of such application, except that no such license shall be issued if its issuance would be inconsistent with the provisions of section five hundred sixteen of this title, and except that the commissioner may refuse to renew such license if the applicant is the holder of a currently valid or renewable license to drive issued by another state or foreign country unless the applicant surrenders such license.

(b) Time for renewal. A renewal license may only be issued if an application for such license is filed within two years from the date of expiration of the prior license. Such application may be filed prior to the expiration of the license being renewed for a period of time as provided by regulation of the commissioner.

7. Selective service act. The commissioner shall provide separate space on the application for a learner's permit, driver's license, non-driver identification card, or renewal thereof so that any person who is at least eighteen years of age but less than twenty-six years of age who applies to the commissioner for such permit, license, or card or renewal thereof may opt to register with the selective service in accordance with 50 U.S.C. App 451 et. seq., as amended, if such person is subject to such act, and consent to have the commissioner forward the necessary personal information in accordance with this subdivision. Such consent shall be separate from any other certification or signature on such application. The commissioner shall include on the application a brief statement about the requirement of the law, a citation of the act, and the consequences for failing to meet the same. The commissioner shall forward to the selective service system, in an electronic format, the necessary personal information required for registration only of individuals who have affirmatively opted and consented, pursuant to this subdivision, to authorize the commissioner to forward such information to the selective service system.

8. Non-commercial drivers' licenses and learners' permits which do not meet federal standards for identification. (a) Non-commercial drivers' licenses and learners' permits which do not meet federal standards for identification shall be issued in such form as the commissioner shall determine, provided that such licenses and permits shall be visually identical to non-commercial drivers' licenses and learners' permits which do meet federal standards for identification except that such licenses and permits may state "Not for Federal Purposes". Provided, however, that the commissioner may promulgate regulations providing for additional design or color indicators for both such non-commercial drivers' licenses and learners' permits if required to comply with federal law.

(b) Applicants for a non-commercial driver's license or learner's permit or a renewal thereof shall not be required to prove that they are lawfully present in the United States.

(c) Application forms for non-commercial drivers' licenses and learners' permits which do not meet federal standards for identification or for renewal thereof shall not state (i) the documents an applicant used to prove age or identity, or (ii) an applicant's ineligibility for a social security number where applicable, or (iii) an applicant's citizenship or immigration status.

(d) The commissioner and any agent or employee of the commissioner shall not retain the documents or copies of documents presented by applicants for non-commercial drivers' licenses or learners' permits which do not meet federal standards for identification to prove age or identity except for a limited period necessary to ensure the validity and authenticity of such documents.

(e) (i) A non-commercial driver's license or learner's permit which does not meet federal standards for identification shall not be used as evidence of a person's citizenship or immigration status, and shall not be the basis for investigating, arresting, or detaining a person. (ii) Neither the commissioner nor any agent or employee of the commissioner shall inquire about the citizenship or immigration status of any applicant for a non-commercial driver's license or learner's permit which does not meet federal standards for identification.

9. Loss of consciousness. a. This subdivision shall apply to any

applicant for an original driver's license in this state who has ever suffered a loss of consciousness, to any applicant for a renewal driver's license who has suffered a loss of consciousness since his or her last license was issued in this state, to any person who is required to submit physicians', physician assistants', or nurse practitioners' statements, in such form as the commissioner may require, as a condition for continuing licensing, and to persons holding a driver's license concerning whom the commissioner has received evidence of loss of consciousness.

b. As used in this subdivision, the following terms shall have the following meanings: "loss of consciousness" shall mean the condition of not being aware of one's surroundings or of one's existence and the inability to receive, interpret or react to sensory impressions as the result of epilepsy, syncope, cataplexy, narcolepsy and other disorders affecting consciousness and control; and "evidence of loss of consciousness" shall mean a police accident report filed pursuant to section six hundred three of this chapter indicating a loss of consciousness, no matter how denominated, as the cause of an accident, or admission by an applicant or licensee, or a complaint alleging loss of consciousness received from police agencies and others.

c. A person to whom this part is applicable shall be deemed to be fit for licensing only as determined by the commissioner in accordance with section 9.3 of part 9 of title 15 of the codes, rules and regulations of the state of New York as prescribed by the commissioner.

d. (i) Upon a scheduled review of a statement as required under paragraph e of this section or upon receipt of evidence from a police agency, police accident report or physician, physician assistant or nurse practitioner confirmed by a department hearing or investigation that a licensee has experienced a lack of consciousness, or if the commissioner has not received an acceptable physician's, physician assistant's or nurse practitioner's statement as defined in subparagraph (iii) of this paragraph, or, if such a statement is received but the commissioner's medical consultant finds grounds to disagree with or to question a recommendation of such physician, physician assistant or

nurse practitioner made in accordance with the provisions of section 9.3 of part 9 of title 15 of the codes, rules and regulations of the state of New York, the commissioner shall deny or suspend such license, whichever is appropriate, and offer to hold a department hearing to review such action, upon written request of such person. If such request for hearing is not made within thirty days of such denial or suspension, the offer to hold a hearing shall be deemed to be withdrawn. Notwithstanding the offer to hold a department hearing to review the denial or suspension, a department hearing will not be held until such time as the motorist submits to the commissioner a physician, physician assistant or nurse practitioner statement as required under the provisions of part 9 of title 15 of the codes, rules and regulations of the state of New York and the commissioner and the commissioner's medical consultants have reviewed such statements within a reasonable period of time. The denial or suspension shall remain in effect until a department hearing is held to review such denial or suspension or after review of the physician, physician assistant or nurse practitioner statement the commissioner and his or her medical consultants finds no grounds to disagree with or to question the physician's, physician assistant's or nurse practitioner's statement.

(ii) Notwithstanding the provisions of subparagraph (i) of this section, upon receipt of an application for an original driver's license, or for renewal of a driver's license, or upon receipt of evidence from a source other than a police agency, police accident report or physician, physician assistant or nurse practitioner, confirmed by a department hearing or investigation that a licensee has experienced a loss of consciousness, the commissioner shall, unless he or she deems such person's operation of a motor vehicle on a public highway to be an immediate hazard, send to such person a proposed denial or suspension of license, whichever is appropriate, with an offer to withhold such action until after a department hearing, if such hearing is requested by such person. The failure of such person to reply to the commissioner, either accepting the denial or suspension or requesting a hearing, within thirty days of the date of such notice, shall result in the imposition of the denial or suspension. If the commissioner deems any such person's operation of a motor vehicle on a public highway to be an immediate hazard, he or she shall deny or suspend such license as

required under subparagraph (i) of this paragraph and such denial or suspension shall be subject to the provisions of such subparagraph (i). For the purposes of this subparagraph, a person's operation of a motor vehicle on a public highway shall be deemed to constitute an immediate hazard if the commissioner has received evidence that such person's loss of consciousness has caused or contributed to a motor vehicle accident.

(iii) A physician's, physician assistant's or nurse practitioner's statement shall not be acceptable unless such licensed physician, physician assistant or nurse practitioner has attended or examined the patient within one hundred twenty days of the date of such statement, and if required by the commissioner, may be required to be submitted by a physician licensed in a specialty appropriate to the condition in question.

e. The commissioner may require the submission of physicians', physician assistants' or nurse practitioners' statements on a scheduled basis as a condition of licensing in those cases in which a person has experienced loss of consciousness but meets standards of fitness as set forth in rules and regulations prescribed by the commissioner, and the physician's, physician assistant's or nurse practitioner's statement indicates that medication is being taken to meet such standards and, in the opinion of either the submitting physician, physician assistant or nurse practitioner or the medical consultant to the commissioner, the submission of such scheduled physician's, physician assistant's or nurse practitioner's statements is considered necessary or desirable. However, the provisions of this subdivision shall not be applicable in any case where a person has been seizure free without medication for a minimum period of one year and submits a physician's, physician assistant's or nurse practitioner's statement.

f. Any hearing held pursuant to this subdivision shall be conducted in conformity with the provisions of the state administrative procedure act and any regulations promulgated by the commissioner thereunder. Judicial review of a determination made by the commissioner after a hearing held pursuant to this subdivision may be had without an administrative appeal being made pursuant to article three-A of this chapter.

§ 502-a. Determination of weights applicable to license requirements. The applicability of the requirements relative to licensing as defined in this article shall, except when a commercial driver's license is required solely because the vehicle is transporting hazardous materials or passengers, be based upon the vehicle manufacturer's GVWR, the registration weight of the vehicle or the actual weight of the vehicle and the load, whichever is greater, or with respect to passenger and limited use automobiles shall be based upon the registration weight of the automobile.

§ 503. Period of validity of drivers' licenses, learners' permits and applications; required fees. 1. Periods of validity. (a) A driver's license shall be valid from the date of issuance until a date of expiration determined by the commissioner. Such dates of issuance and expiration shall be noted on the license, except that if such printed expiration date falls on a Saturday, Sunday or state holiday, such license shall be valid for operation until midnight of the next day on which state offices shall be open for business. However, a prior license shall expire on the date of issuance of a renewal of such prior license. The commissioner may extend the period of validity of a license in a manner and form prescribed by him.

(b) An application for a license shall be valid for a period of time specified by regulation of the commissioner not to exceed five years. A learner's permit shall be valid from its issuance until the expiration of the application for a driver's license for which it was issued. Provided, however, a commercial learner's permit shall be valid for no more than such time as permitted by section 31308 of title 49 of the United States code and part 383.25 of title 49 of the code of federal regulations. Provided, however, that a commercial learner's permit issued by the commissioner in connection with an application for a commercial driver's license shall be cancelled within sixty days of the holder's medical certification status becoming "not-certified" based upon: (i) the expiration of the holder's medical certification or medical variance documentation required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the

code of federal regulations; (ii) the holder's failure to submit such medical certification or medical variance documentation at such intervals as required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations and in a manner prescribed by the commissioner; or (iii) the receipt by the commissioner of information from the issuing medical examiner or the federal motor carrier safety administration that a medical certification or medical variance was issued in error or rescinded. The commissioner shall, upon a holder's status becoming "not-certified", notify the holder of such commercial learner's permit issued in connection with a commercial driver's license application by first class mail to the address of such person on file with the department or at the current address provided by the United States postal service of his or her "not-certified" medical certification status and that the commercial motor vehicle privileges of such commercial learner's permit will be cancelled unless he or she submits a current medical certificate and/or medical variance in accordance with Part 383.71(h) of title 49 of the code of federal regulations or changes his or her self-certification to driving only in excepted or intrastate commerce in accordance with Part 383.71(b) (1) (ii), (iii) or (iv) of title 49 of the code of federal regulations.

2. Fees. (a) Initial application fee. The fee required for the initiation of the licensing process by a person who does not hold a valid or renewable license issued by the commissioner shall be ten dollars.

(i) If application is made for any license other than a commercial driver's license, such fee shall enable the applicant to take the knowledge test required for issuance of a learner's permit and driver's license no more than twice.

(ii) (A) If application is made for a commercial driver's license, such fee shall enable the applicant to take the knowledge test required for issuance of a learner's permit and driver's license once and also take any knowledge test or tests required for any endorsement or endorsements applied for which are taken at the same time.

(B) The knowledge tests for such learner's permit, driver's license or endorsements shall be available in both the English and Spanish language

versions.

(iii) If an applicant fails to pass the knowledge test required for issuance of a learner's permit in the number of times specified in subparagraph (i) or (ii) of this paragraph, a new application fee shall be required.

(b) Learner permit/license fee. (i) Upon passage of the knowledge test required to obtain a learner's permit, the applicant for a commercial driver's license shall be required to pay an additional fee of nine dollars and fifty cents for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued as well as a fee of forty dollars for a road test which must be passed before a license will be issued.

(ii) Upon passage of the knowledge test required to obtain a learner's permit, the applicant for a class C license which does not have an H, P or X endorsement or a class E license shall be required to pay six dollars and twenty-five cents for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued, and an applicant for a class D, DJ, M or MJ license shall be required to pay three dollars and twenty-five cents for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued. No additional fee shall be required of any such applicant to take up to two road tests. Such road test must be passed before a license will be issued.

(iii) If an applicant fails to pass the road test required for issuance of a license in the number of times specified in subparagraph (i) or (ii) of this paragraph, an additional fee of forty dollars will be required for each additional test applied for in order to obtain a commercial driver's license and an additional fee of ten dollars will be required for up to two tests applied for in order to obtain any license other than a commercial driver's license.

(iv) Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this paragraph in effect on and after September first, two thousand nine and the fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

(b-1) Supplemental learner permit/license fee in the metropolitan commuter transportation district. (i) Upon passage of the knowledge test

required to obtain a learner's permit, an applicant for a driver's license who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law shall be required to pay a supplemental fee of one dollar for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued pursuant to the provisions of subparagraph (i) or (ii) of paragraph (b) of this subdivision.

(ii) The commissioner shall deposit daily all funds collected pursuant to subparagraph (i) of this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to subparagraph (i) of this paragraph during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the corporate transportation account of the metropolitan transportation authority special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

(c) Renewal fee. Fees for renewal of a license issued by the commissioner shall be as follows:

(i) For a commercial driver's license, nine dollars and fifty cents

for each six months or portion thereof.

(ii) For a class C license which does not have an H, P or X endorsement or a class E license, six dollars and twenty-five cents for each six months or portion thereof.

(iii) For a class D, DJ, M or MJ license, three dollars and twenty-five cents, for each six months or portion thereof.

(iv) Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this paragraph in effect on and after September first, two thousand nine and the fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

(c-1) In addition to the fees established in paragraphs (b) and (c) of this subdivision, a fee of fifty cents for each six months or portion thereof of the period of validity shall be paid upon the issuance of any permit, license or renewal of a license which is valid for the operation of a motorcycle, except a limited use motorcycle.

(c-2) Refunds. The commissioner shall refund any fees paid for a driver's license pursuant to paragraph (c) of this subdivision for the period commencing after completion of four years of the period of validity of such license, provided that such license is not suspended or revoked and is surrendered to the commissioner before the end of such four year period and application therefor is filed with the commissioner no later than three months from the expiration of such four year period.

(c-3) (i) Supplemental renewal fee in the metropolitan commuter transportation district. In addition to the fees required to be paid pursuant to paragraph (c) of this subdivision, a supplemental fee of one dollar for each six months or portion thereof of the validity of the license shall be paid for renewal of a license of a person who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law issued by the commissioner.

(ii) The commissioner shall deposit daily all funds collected pursuant to this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the

comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this paragraph during the prior month as a result of the supplemental fees imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the corporate transportation account of the metropolitan transportation authority special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

(d) Duplicate and amendment fees. (i) The fee for a duplicate of any license or learner's permit shall be five dollars.

(ii) If a knowledge test or test are required to be passed to secure an amended learner's permit or license, the fees for taking of such test or tests specified in paragraph (a) of this subdivision shall be paid. However, if an amendment is to add only an endorsement or endorsements which require only the passing of a knowledge test or tests, a fee of five dollars shall be paid. If a road test or tests are required to be passed to secure an amended license, the fees for taking such test or tests specified in paragraph (b) of this subdivision shall be paid. If no knowledge or road test is required to secure an amended license, the fee required for such amended license shall be five dollars. In addition, if the fee for the amended learner's permit or license is greater than the fee for the learner's permit or license being amended, the difference in fee shall be paid. If the amendment is only to correct or update a driver's record, no fee other than the photo image fee shall be required.

(e) Alternative testing. If a knowledge test is required in any stage

of the licensing process, the applicant may request that such test be given in a form other than written and if the applicant meets the eligibility standards established by the commissioner for an alternative test then the commissioner shall give such test in an alternative form. An additional fee of five dollars shall be required for such an alternative test.

(f) Photo image fee. In addition to any other fee prescribed herein, a fee of twelve dollars and fifty cents shall be charged for the processing of each learner permit or license document requiring a photo image. Of each such fee collected, five dollars shall be deposited to the credit of the general fund and five dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law.

Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this paragraph in effect on and after September first, two thousand nine and the fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

(f-1) In addition to any other fee prescribed in this section, an additional fee of thirty dollars shall be charged for any license, issued to a New York state resident who is a citizen of the United States, that can be used for certain land and sea border crossings pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of Two Thousand Four, Public Law 108-458, or the regulations promulgated thereunder.

(g) In no event shall the commissioner increase fees or impose surcharges or penalties for the issuance or renewal of licenses without the specific mandate of the legislature effected pursuant to an amendment to this chapter.

(h) An applicant whose driver's license has been revoked pursuant to (i) section five hundred ten of this title, (ii) section eleven hundred ninety-three of this chapter, and (iii) section eleven hundred ninety-four of this chapter, shall, upon application for issuance of a

driver's license, pay to the commissioner a fee of one hundred dollars. When the basis for the revocation is a finding of driving after having consumed alcohol pursuant to the provisions of section eleven hundred ninety-two-a of this chapter, the fee to be paid to the commissioner shall be one hundred dollars. Such fee is not refundable and shall not be returned to the applicant regardless of the action the commissioner may take on such person's application for reinstatement of such driving license. Such fee shall be in addition to any other fees presently levied but shall not apply to an applicant whose driver's license was revoked for failure to pass a reexamination or to an applicant who has been issued a conditional or restricted use license under the provisions of article twenty-one-A or thirty-one of this chapter.

(i) A non-resident whose driving privileges have been revoked pursuant to sections five hundred ten, eleven hundred ninety-three and eleven hundred ninety-four of this chapter shall, upon application for reinstatement of such driving privileges, pay to the commissioner of motor vehicles a fee of one hundred dollars. When the basis for the revocation is a finding of driving after having consumed alcohol pursuant to the provisions of section eleven hundred ninety-two-a of this chapter, the fee to be paid to the commissioner shall be one hundred dollars. Such fee is not refundable and shall not be returned to the applicant regardless of the action the commissioner may take on such person's application for reinstatement of such driving privileges.

(j) Whenever a license issued pursuant to this article, or a privilege of operating a motor vehicle or of obtaining such a license, has been suspended, such suspension shall remain in effect until a termination of a suspension fee of fifty dollars is paid to the commissioner; provided, however, when the basis for the suspension is a finding of driving after having consumed alcohol pursuant to the provisions of section eleven hundred ninety-two-a of this chapter, the fee to be paid to the commissioner shall be one hundred dollars. The provisions of this paragraph shall not apply to a temporary suspension pending a hearing, prosecution or investigation, nor to an indefinite suspension which is issued because of the failure of the person suspended to perform an act, which suspension will be terminated by the performance of the act.

(j-1) (i) When a license issued pursuant to this article, or a privilege of operating a motor vehicle or of obtaining such a license,

has been suspended based upon a failure to answer an appearance ticket or a summons or failure to pay a fine, penalty or mandatory surcharge, pursuant to subdivision three of section two hundred twenty-six, subdivision four of section two hundred twenty-seven, subdivision four-a of section five hundred ten or subdivision five-a of section eighteen hundred nine of this chapter, such suspension shall remain in effect until a termination of a suspension fee of seventy dollars is paid to the court or tribunal that initiated the suspension of such license or privilege. In no event may the aggregate of the fees imposed by an individual court pursuant to this paragraph for the termination of all suspensions that may be terminated as a result of a person's answers, appearances or payments made in such cases pending before such individual court exceed four hundred dollars. For the purposes of this paragraph, the various locations of the administrative tribunal established under article two-A of this chapter shall be considered an individual court.

(ii) Any such fee collected by any court, judge, magistrate or other officer specified in subdivision one of section thirty-nine of the judiciary law, establishing a unified court budget, shall be paid to the state commissioner of taxation and finance on a monthly basis no later than ten days after the last day of each month. All such monies collected under this subdivision shall be deposited to the indigent legal services fund established by section ninety-eight-b of the state finance law.

(iii) Any such fee collected by any other court, judge, magistrate or other officer shall, except as provided in paragraph (k) of this subdivision, be paid to the state comptroller within the first ten days of the month following collection. Every such payment to the comptroller shall be accompanied by a statement in such form and detail as the comptroller shall provide. All such monies collected under this subdivision shall be deposited to the indigent legal services fund established by section ninety-eight-b of the state finance law.

(iv) Notwithstanding any other provision of this paragraph, fifty percent of all fees collected pursuant to this paragraph shall be deposited to the credit of the general fund.

(k) Fees assessed for reapplication for a driver's license or reinstatement of driving privileges after revocation or required to be

paid for termination of suspension as provided in paragraphs (h), (i) and (j) of this subdivision shall be paid to the commissioner for deposit to the general fund. Fees assessed for termination of suspension as provided in paragraph (j-1) of this subdivision and collected by an administrative tribunal established under article two-A of this chapter shall be paid over to the state comptroller to the credit of the indigent legal services fund established by section ninety-eight-b of the state finance law.

3. Waiver of fee. The commissioner may waive the payment of fees required by subdivision two of this section if the applicant:

(i) is an incarcerated individual in an institution under the jurisdiction of a state department or agency, or

(ii) is a victim of crime and the driver's license or learner's permit applied for is a replacement for one that was lost or destroyed as a result of the crime.

4. Driver responsibility assessment. (a) Any person who accumulates six or more points on his or her driving record for acts committed within an eighteen month period shall become liable to the department for payment of a driver responsibility assessment as provided in this subdivision.

(b) The amount of the driver responsibility assessment under this section shall be one hundred dollars per year for a three-year period for the first six points on a driver's record and an additional twenty-five dollars per year for each additional point on such driver's record.

(c) Upon receipt of evidence that a person is liable for the driver responsibility assessment required by this subdivision, the commissioner shall notify such person by first class mail to the address of such person on file with the department or at the current address provided by the United States postal service of the amount of such assessment, the time and manner of making required payments, and that failure to make payment shall result in the suspension of his or her driver's license or privilege of obtaining a driver's license.

(d) If a person shall fail to pay any driver responsibility assessment as provided in this subdivision, the commissioner shall suspend such

person's driver's license or privilege of obtaining a license. Such suspension shall remain in effect until any and all outstanding driver responsibility assessments have been paid in full.

(e) Any completion of a motor vehicle accident prevention course approved pursuant to article twelve-B of this chapter shall not serve to reduce the calculation of points on a person's driving record for the purposes of this section.

(f) Notwithstanding any other provision of law to the contrary, commencing April first, two thousand six and ending March thirty-first, two thousand fourteen, in each year, the first forty million seven hundred thousand dollars of fees collected pursuant to this subdivision and section eleven hundred ninety-nine of this chapter, in the aggregate, shall be paid to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund. Any such fees collected in excess of such amount shall be paid to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. Commencing April first, two thousand fourteen and for each such fiscal year thereafter, any such fees collected pursuant to this subdivision and section eleven hundred ninety-nine of this chapter shall be paid to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.

§ 504. Form of license. 1. (a) Every license or renewal thereof shall contain a distinguishing mark and adequate space upon which an anatomical gift, pursuant to section forty-three hundred ten of the public health law, by the licensee shall be recorded and shall contain such other information and shall be issued in such form as the commissioner shall determine; provided, however, every license or renewal thereof issued to a person under the age of twenty-one years shall have prominently imprinted upon it the statement "UNDER 21 YEARS OF AGE" in notably distinctive print or format; provided further, however, every license or renewal thereof issued to a person making an anatomical gift shall have prominently printed upon the front of such

license or renewal thereof the statement "ORGAN DONOR" in notably distinctive print or format. The commissioner shall not require fees for the issuance of such licenses or renewals thereof to persons under twenty-one years of age or to persons making an anatomical gift which are different from the fees required for the issuance of licenses or renewals thereof to persons twenty-one years of age or over or to persons not making an anatomical gift.

(a-1) Every license or renewal thereof issued to an applicant who was a member of the armed forces of the United States and who (i) received an honorable discharge or was released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, shall, upon his or her request and submission of proof as set forth herein, contain a distinguishing mark, in such form as the commissioner shall determine, indicating that he or she is a veteran. Such proof shall consist of a certificate of release or discharge from active duty including but not limited to a DD Form 214 or other proof satisfactory to the commissioner. The commissioner shall not require fees for the issuance of such licenses or renewals thereof to persons requesting a veteran distinguishing mark which are different from fees otherwise required; provided, however, that notwithstanding the provisions of this section, the commissioner shall not require fees for a duplication or amendment of a license prior to its renewal if such duplication or amendment was solely for the purpose of adding a veteran distinguishing mark to such license.

(b) The commissioner may by regulation provide that every driver's license contain the photo image of the licensee. The learner's permit may also contain the photo image of the permittee pursuant to regulations established by the commissioner.

2. Whenever an applicant for a license has successfully met the requirements for the issuance of a license, the license issued by the commissioner may be a temporary license which shall be valid until the license provided in subdivision one of this section is issued or until

forty-five days from the date such temporary license is issued, whichever occurs first. The commissioner may in his discretion extend the period of validity of such temporary license. Such temporary license shall be in such form as the commissioner shall determine.

3. Notwithstanding any other provision of law, any photo image taken as part of the application procedure for a learner's permit or an original, duplicate, renewal or amended driver's license shall not be a public record.

§ 505. Duplicate and amended licenses and permits; change of address. 1. Lost, mutilated or destroyed license or permit. In the event of the loss, mutilation or destruction of any driver's license, or any part thereof, or any learner's permit, or any document issued by the commissioner and required for the issuance of a license, the licensee or applicant may file with the commissioner proof of the facts with respect to such loss, mutilation or destruction together with the fee prescribed by law. If the commissioner is satisfied that the applicant is entitled to a duplicate of such item, he shall issue a duplicate of the lost, mutilated or destroyed item. Any mutilated item shall be surrendered before a duplicate is issued. If a duplicate license or permit is issued because of a lost license or permit, and such lost license or permit is later recovered by the licensee or permit holder, he shall surrender such recovered item to the commissioner for cancellation within ten days after recovery of such item.

2. Change of class of license or addition of class to license. Any licensee holding a license of one class who desires to obtain a license of another class or to add a different class or endorsement to a license may file an application with the commissioner together with the fee for an amended license for the purpose of having such license amended. The commissioner may require such applicant to take any tests required for the issuance of a license in the desired class. Upon successful completion of any required tests and the surrender of the prior license, the commissioner shall issue such amended license.

3. Removal of restriction. Any person holding a license containing restrictions as to use, other than one imposed solely by statute, may file an application with the commissioner together with the fee for an amended license for the purpose of having such restriction removed. The commissioner shall require such applicant to submit such information or to take such tests as he deems appropriate with respect to such restrictions. Upon approval of such information or the successful completion of such tests, and the surrender of the prior license, the commissioner shall issue an appropriate amended license.

4. Amendment of license. Any person holding a license which contains any error, other than a clerical error made by the issuing agency, with respect to the information contained thereon, except with respect to the address of such licensee, may file an application with the commissioner together with the fee, if any, for an amended license to have such error corrected. The commissioner shall require such person to submit proof acceptable to him with respect to the facts, and upon approval of such proof and the surrender of the prior license, the commissioner shall issue an appropriate amended license.

5. Change of address. It shall be the duty of every licensee to notify the commissioner in writing of any change of residence of such licensee within ten days after such change occurs.

6. It shall be the duty of the commissioner to deliver to the state board of elections, at least semi-annually, records, in a format as mutually determined by both agencies, of the names of all licensed drivers of voting age who have voluntarily surrendered their New York state drivers licenses in order to obtain a license in another state. Where feasible the department of motor vehicles shall also deliver records of the names of all licensed drivers of voting age who have notified the department of a change of residence address. Such records shall be arranged by county of old residence and shall include the name, birth date and old residence address of each such licensee and the new residence address of each such person who has moved within New York state.

§ 506. Reexamination of licensees. 1. If the commissioner has reasonable grounds to believe that a person holding a license issued pursuant to this article is not qualified to drive a motor vehicle, the commissioner may require such person to submit to an examination to determine his qualifications.

2. The commissioner may require every person holding a license issued pursuant to this article to submit to such an examination as shall be determined by him to be appropriate if such person has been involved in three accidents while driving a motor vehicle or motorcycle within a period of eighteen months, if such accidents were required to be reported by section six hundred five of this chapter.

3. If the licensee satisfactorily passes any such examination, he shall be so informed and his license shall continue to be valid. If he fails to pass, the commissioner shall take such reasonable action as may be required. Such action may consist of imposing restrictions on the use of the license of such person, in suspending such license for a definite or indefinite period, or in revoking such license. If any such person fails after reasonable notice or refuses to submit to an examination, the commissioner may revoke his license or suspend it for an indefinite period solely because of such failure or refusal.

4. Any person holding a license issued pursuant to this chapter who suffers permanent loss of use of one or both hands or arms or of one or both feet or legs, or one eye shall, before operating any motor vehicle or motorcycle make report thereof to the commissioner, who shall take such reasonable action as may be proper under the provisions of this section.

5. Upon the permanent loss of use of both eyes a license issued under this article shall be null and void.

§ 507. Miscellaneous provisions. 1. Driver education. Notwithstanding any other provisions of this article, a class D or class M license,

whichever is appropriate, may be issued to a minor seventeen years of age who has successfully completed a driver education course approved by the state education department and the commissioner in a high school or college and who has submitted proof of completion of the minimum hours of supervised driving as required in paragraph (d) of subdivision two of section five hundred two of this article; provided however, the Yeshiva of Staten Island, which operates as a high school, may provide driver education courses at the Arthur Kill Road Jewish Community Center of Staten Island and the Manor Road Jewish Community Center of Staten Island, located in the county of Richmond; provided however, the Hebrew Academy of Nassau County, a unified school that operates a high school, may provide a driver education course approved by the state education department in a middle school or elementary school location provided such course instruction occurs when elementary or middle school is not in session. No such driver education course may be approved unless classroom training is provided by a person approved by the state education department and the commissioner. However, a school district may contract with one or more licensed drivers' schools to provide behind the wheel training, pursuant to regulations promulgated by the commissioner. The commissioner shall prescribe the requirements for licensing of such minors. A student enrolled in such an approved driver education course may operate a motor vehicle without holding a driver's license or a learner's permit while under the immediate supervision of an instructor in such course or a driver's school instructor providing behind the wheel training in such a course, provided such operation is in accordance with the rules established by the commissioner. Every student who successfully completes such course in a day, evening or summer school program offered by a public or private school shall receive certification of such completion on a certificate prescribed by the commissioner.

2. Failure to exhibit license. Failure by a licensee to exhibit a license valid for operation under this chapter to any magistrate, motor vehicle license examiner, motor vehicle investigator, peace officer, acting pursuant to his special duties, or police officer shall be presumptive evidence that he is not duly licensed.

4. Entry into military service. If any person who enters military service shall fail to give timely notification in writing of such entry to the commissioner, the commissioner may, in his discretion, refuse to renew such person's driver's license, if such license is not otherwise renewable under the provisions of this article.

5. Road tests. A motor vehicle license examiner or other agent designated by the commissioner, while engaged in conducting a road test is not deemed to be a supervising or an accompanying driver in relation to the applicant being tested.

§ 507-a. Special requirements for for-hire vehicle motor carriers and drivers; drugs and alcohol. 1. (a) All motor carriers shall be required to conduct pre-employment and random drug and alcohol testing in accordance with the provisions and requirements of Part 382 of Title 49 of the Code of Federal Regulations on all drivers of any for-hire vehicle having a seating capacity of nine or more passengers, including the driver, regardless of a commercial driver's license endorsement. Every such driver shall be included in the random testing pool from which drivers are randomly selected for testing, and every such driver shall submit to such testing when selected, as required in Part 382 of Title 49 of the Code of Federal Regulations.

(b) Drug testing administered pursuant to this subdivision shall, at a minimum, be in conformance with drug testing procedures as set forth in Part 382 of Title 49 of the Code of Federal Regulations.

2. No person shall:

(a) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor or drug, within eight hours before going on duty or operating, or having physical control of a for-hire vehicle having a seating capacity of nine or more passengers, including the driver; or

(b) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, or operating, or in physical control of a for-hire vehicle having a seating capacity of nine or more passengers, including the driver; or

(c) possess a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content, while on duty, operating or in physical control of a for-hire vehicle having a seating capacity of nine or more passengers, including the driver. However, this paragraph shall not apply to possession of a drug, controlled substance or an intoxicating liquor which is transported as part of a shipment or personal effects of a passenger or to alcoholic beverages which are in sealed containers.

3. No motor carrier shall require or permit a driver to:

(a) violate any provision of subdivision two of this section; or

(b) be on duty or operate a for-hire vehicle having a seating capacity of nine or more passengers, including the driver, if by such person's general appearance or by such person's conduct or by other substantiating evidence, such person appears to have consumed a drug, controlled substance or an intoxicating liquor within the preceding eight hours before such driver operates such for-hire vehicle.

4. (a) Every motor carrier shall submit an affidavit to the commissioner attesting to compliance with this section. Such affidavit shall be submitted annually beginning no later than six months after the effective date of this subdivision, in a manner prescribed by regulations established by the commissioner.

(b) Where an affidavit is not submitted pursuant to this section, the commissioner may, in his or her discretion, suspend the registration of the for-hire vehicle or vehicles or deny registration or renewal to the for-hire vehicle or vehicles owned or operated by the motor carrier. Such suspension or denial shall only remain in effect as long as the motor carrier fails to submit such affidavit.

(c) The commissioner may require any motor carrier to pay to the people of this state a civil penalty, if after the motor carrier has had an opportunity to be heard, the commissioner finds that the motor carrier has violated any provision of this section or regulations promulgated pursuant to this section, or has made any false statement or misrepresentation on any affidavit of compliance filed with the commissioner. Any civil penalty assessed for a first violation shall not be less than five hundred dollars nor greater than two thousand five

hundred dollars for each violation, false statement or misrepresentation found to have been made or committed, and for a second or subsequent violation, not arising out of the same incident, all of which were committed within a period of eighteen months, shall not be less than five hundred dollars nor greater than five thousand dollars for each violation, false statement or misrepresentation found to have been made or committed. If the registrant fails to pay such penalty within twenty days after the mailing of such order, postage prepaid, certified and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the for-hire vehicle registrations or out of state registration privilege of operation in the state of such motor carrier or may suspend the same for such periods as the commissioner may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law after reimbursing the department for the actual costs of public education activities undertaken by the department to implement this section, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner.

(d) Upon the suspension of a vehicle registration pursuant to paragraph (b) or (c) of this subdivision, the commissioner shall have the authority to deny a registration or renewal application to any other person for the same for-hire vehicle and may deny a registration or renewal application for any other for-hire motor vehicle registered in the name of the applicant where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this section. Such suspension or denial shall remain in effect only as long as the suspension entered pursuant to paragraph (b) or (c) of this subdivision remains in effect.

5. For purposes of this section, the term "motor carrier" shall mean any person, firm, corporation, association or entity which directs one or more drivers of a for-hire vehicle or vehicles, having a seating capacity of nine or more passengers, including the driver, and which operates such for-hire vehicle or vehicles in the business of transporting passengers for compensation, and the term "for-hire

vehicle" shall mean a taxicab or livery having a seating capacity of nine or more passengers, including the driver, including an altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers, including the driver.

§ 508. Administrative procedures. 1. The commissioner shall appoint agents to act in his behalf with respect to the acceptance of applications and the issuance of licenses and permits prescribed in this article, and he may prescribe the internal procedures to be followed by such agents with respect to such matters.

2. Any application required to be filed under this article shall be in a manner and on a form or forms prescribed by the commissioner. The applicant shall furnish all information required by statute and, except as otherwise provided in this title, such other information as the commissioner shall deem appropriate.

3. License record. The commissioner shall keep a record of every license issued which record shall be open to public inspection during reasonable business hours. Provided, however, that the following information whenever contained within the record of non-commercial drivers' licenses and learners' permits shall not be open to public inspection: the photo image, social security number, client identification number, name, address, telephone number, place of birth, country of origin, place of employment, school or educational institution attended, source of income, status as a recipient of public benefits, the customer identification number associated with a public utilities account, medical information or disability information of any holders of, or applicants for, such licenses and permits, and whether such licenses or permits meet federal standards for identification or do not meet federal standards for identification. Neither the commissioner nor his agent shall be required to allow the inspection of an application, or to furnish a copy thereof, or information therefrom, until a license has been issued thereon.

4. The commissioner may promulgate regulations with respect to the

administration of the provisions of this article.

5. The commissioner is directed to develop license application and renewal forms which shall solicit a voluntary one dollar donation from persons applying for or renewing a driver's license at the time of such application or renewal. Of monies collected pursuant to this subdivision, the first one hundred fifty thousand dollars shall be retained by the department to offset its initial program costs. Subsequently, five percent of any monies collected pursuant to this subdivision shall be retained by the department for continuing administrative costs. The remainder of such monies collected pursuant to this subdivision shall be deposited in the life pass it on trust fund established pursuant to section ninety-five-d of the state finance law, as added by chapter four hundred fifteen of the laws of two thousand three.

6. The commissioner, in consultation with the commissioner of the department of veterans' services, is directed to establish a process by which the department shall refer driver's license and non-driver identification card applicants requesting and obtaining a notation upon such license or non-driver identification card that such applicant is a veteran of the United States armed forces pursuant to subdivision three of section four hundred ninety of this chapter or subdivision one of section five hundred two of this article, upon such applicant's request, to the department of veterans' services, consistent with the provisions of section seven of the veterans' services law.

* 7. The commissioner is directed to establish a process by which the department shall refer driver's license and non-driver identification card applicants who consent to having their information shared with the C.W. Bill Young Cell Transplantation Program established in 42 U.S.C. Section 274k or the national marrow donor program ("registry operator") for the purposes of receiving information from the registry operator about enrolling as a potential volunteer bone marrow or blood cell donor on the national registry. The commissioner is directed to further amend the public website of the department to include a link to access publicly available information about the registry operator.

* NB Effective January 1, 2028

§ 509. Violations. 1. Except while operating a motor vehicle during the course of a road test conducted pursuant to the provisions of this article, no person shall operate or drive a motor vehicle upon a public highway of this state or upon any sidewalk or to or from any lot adjacent to a public garage, supermarket, shopping center or car washing establishment or to or from or into a public garage or car washing establishment unless he is duly licensed pursuant to the provisions of this chapter.

1-a. Whenever a license is required to operate a commercial motor vehicle, no person shall operate a commercial motor vehicle without the proper endorsements for the specific vehicle being operated or for the passengers or type of cargo being transported.

2. Whenever a license is required to operate a motor vehicle, no person shall operate a motor vehicle unless he is the holder of a class of license which is valid for the operation of such vehicle.

3. Whenever a permit or license is required to operate a motor vehicle, no person shall operate any motor vehicle in violation of any restriction contained on, or applicable to, the permit or license.

4. No person shall knowingly authorize or permit a motor vehicle owned by him or in his charge to be operated in violation of subdivisions one, two or three of this section.

5. No person shall hold more than one unexpired license issued by the commissioner at any one time. The holding of a license of one class and a learner's permit for another class at the same time shall not be deemed a violation of this subdivision.

6. No licensee shall voluntarily permit any other person to use his license, nor shall any person at any time possess or use any forged, fictitious or illegally obtained license, or use any license belonging to another person.

7. No person shall operate a commercial motor vehicle without being in possession of the appropriate license for the motor vehicle being operated.

7-a. No person shall operate a commercial motor vehicle while knowing or having reason to know that he or she is not medically certified, as required, in accordance with the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations.

8. No licensee shall fail to notify the commissioner in writing of a change of residence as required by this article.

9. Whenever notice of disability is required to be given to the commissioner as required by this article, no person shall operate any motor vehicle until such notice has been given.

10. No person shall hold an unexpired license issued by the commissioner while holding a driver's license issued by any other jurisdiction. This prohibition shall not apply to any license which by its terms is valid only within the jurisdiction of issuance. Nor shall it apply if such person has informed the commissioner of such multiple licenses and the commissioner has determined that it is necessary for such person to hold more than one license to comply with the laws of each of the jurisdictions in which such licenses were issued. The foregoing exceptions shall not be applicable to commercial driver's licenses after December thirty-first, nineteen hundred eighty-nine.

11. A violation of any provision of this section shall be punishable by a fine of not less than seventy-five nor more than three hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment except, if the violation consists of failure to renew a license which was valid within sixty days, the fine shall be not more than forty dollars, and except that a violation of subdivision seven or eight of this section shall be punishable by a fine of not more than seventy-five dollars.

12. A violation of subdivision two of this section involving the operation for hire of any vehicle as a taxicab, livery as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van or tow truck within the state without the appropriate license therefor, shall be punishable by a fine of not less than two hundred twenty-five dollars nor more than four hundred fifty dollars. A person who operates a vehicle for hire without the appropriate license therefor pursuant to subdivision two of this section after having been convicted of such a violation within the preceding five years shall be punished by a fine of not less than three hundred seventy-five dollars nor more than seven hundred fifty dollars. A person who operates a vehicle for hire without the appropriate license therefor pursuant to subdivision two of this section after having been convicted two or more times of such a violation within the preceding ten years shall be punished by a fine of not less than seven hundred fifty dollars nor more than one thousand five hundred dollars.

ARTICLE 19-A

SPECIAL REQUIREMENTS FOR BUS DRIVERS

Section 509-a. Definitions.
509-b. Qualifications of bus drivers.
509-bb. Reexamination of bus drivers.
509-c. Disqualification of bus drivers generally.
509-cc. Disqualification of drivers of school buses.
509-d. Qualification procedures for bus drivers, maintenance of files and availability to subsequent employers.
509-e. Annual review of driving record.
509-f. Record of violations.
509-g. Examinations and tests.
509-h. Operation by person not licensed to drive a bus.
509-i. Notification of a conviction resulting from a violation of this chapter in this state or a motor vehicle conviction in another state and license revocation.
509-j. Compliance required.
509-k. Ill or fatigued operator.

509-l. Drugs, controlled substances and intoxicating liquor.
509-m. Duties of the department.
509-n. Exempt carriers; reporting requirements.
509-o. Penalties.

§ 509-a. Definitions. As used in this article the term: (1) bus shall mean every motor vehicle, owned, leased, rented or otherwise controlled by a motor carrier, which (a) is a school bus as defined in section one hundred forty-two of this chapter or has a seating capacity of more than ten adult passengers in addition to the driver and which is used for the transportation of persons under the age of twenty-one or persons of any age who are mentally or physically disabled to a place of vocational, academic or religious instruction or religious service including nursery schools, day care centers and camps, (b) is required to obtain approval to operate in the state as a common or contract carrier of passengers by motor vehicle from the commissioner of transportation, or the interstate commerce commission, (c) is regulated as a bus line by a city that has adopted an ordinance, local law or charter to regulate or franchise bus line operations pursuant to subdivision four of section eighty of the transportation law, (d) is regulated as a van service or other common carrier of passengers by motor vehicle covered under article seven of the transportation law by a city with a population of over one million pursuant to an ordinance or local law adopted pursuant to subdivision five of section eighty of the transportation law or (e) is operated by a transit authority or municipality and is used to transport persons for hire. Provided, however, that bus shall not mean an authorized emergency vehicle operated in the course of an emergency, or a motor vehicle used in the transportation of agricultural workers to and from their place of employment;

(2) driver or bus driver shall mean every person: (i) who is self-employed and drives a bus for hire or profit; or (ii) who is employed by a motor carrier and operates a bus owned, leased or rented by such employer; or (iii) who as a volunteer drives a bus which is owned, leased or rented by a motor carrier. Provided, however, bus driver shall not include those persons who are engaged in the maintenance, repair or garaging of such buses and in the course of their

duties must incidentally drive a bus without passengers, or who, as a volunteer, drive a bus with passengers for less than thirty days each year;

(3) motor carrier shall mean any person, corporation, municipality, or entity, public or private, who directs one or more bus drivers and who operates a bus wholly within or partly within and partly without this state in connection with the business of transporting passengers for hire or in the operation or administration of any business, or place of vocational, academic or religious instruction or religious service for persons under the age of twenty-one or persons of any age who are mentally disabled including nursery schools, day care centers and camps, or public agency, except such out-of-state public or governmental operators who may be exempted from the provisions of this article by the commissioner through regulation promulgated by the commissioner;

(4) intoxicating liquor shall mean and include, alcohol, spirits, liquor, wine, beer and cider having alcoholic content;

(5) drug shall mean any substance listed in section thirty-three hundred six of the public health law not dispensed or consumed pursuant to a lawful prescription;

(6) controlled substance shall mean any substance listed in section thirty-three hundred six of the public health law not dispensed or consumed pursuant to lawful prescription.

(7) accident shall include any accident with another vehicle, object or person, which occurs in this state or elsewhere, in which any person is killed or injured, or in which damage to the property of any one person, including the operator, in excess of one thousand five hundred dollars is sustained, or in which damage in excess of two thousand five hundred dollars is sustained to any bus as defined in section one hundred four of this chapter; provided however that accidents occurring outside this state shall not be recorded on the driver's license record.

§ 509-b. Qualifications of bus drivers. Notwithstanding any other provision of law, a person shall be qualified to operate a bus only if such person:

(1) is at least eighteen years old;

(2) has been issued a currently valid driver's license or permit which

is valid for the operation of the bus in this state;

(3) has passed the bus driver physical examination administered pursuant to regulations established by the commissioner; and

(4) is not disqualified to drive a motor vehicle pursuant to section five hundred nine-c or any other provision of this article.

§ 509-bb. Reexamination of bus drivers. (1) Any person employed as a bus driver who has on three occasions been the operator of a motor vehicle involved in an accident of a nature or type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period, shall be subject to reexamination, including a road test, as provided in this section; provided, however, that if such person is subject to a period of disqualification pursuant to section five hundred nine-c or five hundred nine-cc of this article, such reexamination shall occur not more than forty-five days prior to the completion of such period of disqualification; and provided, further, that accidents in which the driver was completely without fault shall not be included in determining whether such reexamination is required.

(2) The commissioner may require any person who meets the criteria set forth in subdivision one of this section to submit to such an examination as the commissioner shall deem appropriate. Every required road test shall be administered on an appropriate vehicle defined as a bus pursuant to section five hundred nine-a of this article.

(3) For purposes of this section, one such accident shall not be counted if the person successfully completes a motor vehicle accident prevention course approved by the commissioner.

(4) Upon the failure of the licensee to successfully complete a reexamination authorized by this section, the commissioner shall take such reasonable action as may be required. Such action may consist of imposing restrictions on the use of the license of such person, suspending such license for a definite or indefinite period, or revoking such license. The commissioner may revoke or suspend for an indefinite period the license of any person who after reasonable notice fails or refuses to submit to such reexamination. No person whose license has been suspended or revoked under this section shall be qualified to

operate a bus until such person successfully completes a reexamination authorized by this section.

(5) Upon a driver's successful completion of a reexamination required by this section, the commissioner shall issue an eighteen-month probationary license to such driver and all of the provisions of section five hundred ten-b of this article shall apply.

§ 509-c. Disqualification of bus drivers generally. (1) Other than persons requiring qualification under section five hundred nine-cc of this chapter, a person employed as a bus driver on September fifteenth, nineteen hundred eighty-five and who was subject to the provisions of this article as it existed immediately prior to September fifteen, nineteen hundred eighty-five, shall be disqualified from operating a bus as follows:

(a) permanently, if that person has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law, provided, however, the provisions of this paragraph shall not apply to convictions, suspensions or revocations or forfeitures of bonds for collateral upon any of the charges listed in this paragraph for violations which occurred prior to September first, nineteen hundred seventy-four committed by a person employed as a bus driver on September first, nineteen hundred seventy-four. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

(b) for a period of five years from the date of last conviction specified herein, if that person

(i) has been convicted of any violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce;

(ii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or offenses committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, committed within the preceding five year period;

(iii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter, or an offense committed outside of this state which would constitute a violation of any subdivision of section eleven hundred ninety-two of this chapter, committed within any ten year period after September fifteenth, nineteen hundred eighty-five; or

(iv) has been convicted of leaving the scene of an accident which resulted in personal injury or death under subdivision two of section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of subdivision two of section six hundred of this chapter. Such disqualification shall be for a period of three years if such conviction occurred prior to September fifteenth, nineteen hundred eighty-five; or

(v) has been convicted of a violation of section 120.04, 120.04-a, 125.13, 125.14 or 235.07 of the penal law.

(c) for a period of five years from the date of last conviction, if that person has been convicted of a violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five;

(d) for a period of one year, if that person has accumulated nine or more points on his or her driving record for acts that occurred during an eighteen month period on or after September fifteenth, nineteen hundred eighty-five, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course.

(e) for a period of one year, if that person was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required;

(f) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test.

(g) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months.

(2) All other bus drivers who are not subject to subdivision one of this section shall be disqualified from operating a bus as follows:

(a) permanently, if that person has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation committed prior to September fifteenth, nineteen hundred eighty-five, of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate

of good conduct pursuant to article twenty-three of the correction law.

(b) for a period of five years from the date of last conviction specified herein, if the person

(i) has been convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce;

(ii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside of this state within any ten year period on or after September fifteenth, nineteen hundred eighty-five, which would constitute a violation of section eleven hundred ninety-two of this chapter; or

(iii) has been convicted of leaving the scene of an accident which resulted in personal injury or death under subdivision two of section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of subdivision two of section six hundred of this chapter; or

(iv) has been convicted of a violation of section 120.04, 120.04-a, 125.13 or 235.07 of the penal law.

(c) for a period of five years from the date of last conviction, if that person has been convicted of any violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five;

(d) for a period of one year, if that person accumulates nine or more points on his or her driving record for acts occurring during an eighteen month period, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course.

(e) for a period of one year, if that person was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a

reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required;

(f) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test.

(g) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months.

(3) A person shall be disqualified from operating a bus if that person has had any license, permit, or privilege to operate a motor vehicle suspended, revoked, withdrawn or denied and such license, permit or privilege has not been reinstated by the authority which took such action. Provided, however, that the provisions of this subdivision shall not apply to a person whose (i) license, permit or privilege to operate a motor vehicle cannot be reinstated because of non-residency in the state in which the license was suspended, revoked, withdrawn or denied or (ii) a person holds a conditional driver's license or a restricted use license issued by the commissioner pursuant to the provisions of article twenty-one or twenty-one-A of this chapter, and is not disqualified under any other provision of this article.

§ 509-cc. Disqualification of drivers of school buses. (1) A person employed as a driver of a school bus as defined in paragraph (a) of subdivision one of section five hundred nine-a of this chapter on September fifteenth, nineteen hundred eighty-five and who was subject to the provisions of this article as it existed immediately prior to September fifteen, nineteen hundred eighty-five, and was employed in

this state as a driver of a school bus as defined in paragraph (a) of subdivision one of section five hundred nine-a of this chapter at any time during the first six months of nineteen hundred eighty-five, shall be disqualified from operating a school bus as follows:

(a) permanently, if that person

(i) has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation committed prior to September fifteenth, nineteen hundred eighty-five, of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law, provided, however, the provisions of this subparagraph shall not apply to convictions, suspensions or revocations or forfeitures of bonds for collateral upon any of the charges listed in this subparagraph for violations which occurred prior to September first, nineteen hundred seventy-four committed by a person employed as a bus driver on September first, nineteen hundred seventy-four. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children to the applicant's prospective employment, prior to granting such a certificate; or

(ii) has been convicted of an offense listed in paragraph (a) of subdivision four of this section that was committed on or after September fifteenth, nineteen hundred eighty-five. However, such disqualification may be waived by the commissioner provided that five

years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate; or

(iii) has been convicted of an offense listed in paragraph (b) of subdivision four of this section that was committed on or after September fifteenth, nineteen hundred eighty-five. However, such disqualification shall be waived provided that five years have expired since the applicant discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate. Provided, however, that at the discretion of the commissioner, the certificate of relief from disabilities may remove disqualification at any time; or

(b) for a period of five years from the date of last conviction specified herein, if that person

(i) has been convicted within the preceding five years of an offense listed in paragraph (c) of subdivision four of this section that was committed on or after September fifteenth, nineteen hundred eighty-five.

However, such disqualification shall be waived provided that the applicant has been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate;

(ii) has been convicted of any violation of section eleven hundred ninety-two of this chapter or an offense committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce;

(iii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or offenses committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, committed within the preceding five year period;

(iv) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter, or an offense committed outside of this state which would constitute a violation of any subdivision of section one thousand one hundred ninety-two of this chapter, committed within any ten year period after September fifteenth, nineteen hundred eighty-five; or

(v) has been convicted of leaving the scene of an accident which resulted in personal injury or death under section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of section six hundred of this chapter.

(c) for a period of five years from the date of last conviction, if that person has been convicted of a violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five;

(d) for a period of one year, if that person has accumulated nine or

more points on his or her driving record for acts that occurred during an eighteen month period on or after September fifteenth, nineteen hundred eighty-five, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course.

(e) for a period of one year, if that person or was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required;

(f) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test.

(g) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months.

(2) All other school bus drivers who are not subject to subdivision one of this section shall be disqualified from operating a bus as follows:

(a) permanently, if that person has been convicted of an offense listed in paragraph (a) of subdivision four of this section. However, such disqualification may be waived by the commissioner provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article

twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children to the applicant's prospective employment, prior to granting such a certificate.

(b) permanently, if that person has been convicted of an offense listed in paragraph (b) of subdivision four of this section. However, such disqualification shall be waived provided that five years have expired since the applicant was incarcerated pursuant to a sentence of imprisonment imposed on conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate. Provided, however, that at the discretion of the commissioner the certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law may remove disqualification at any time.

(c) for a period of five years from the date of last conviction specified herein, if that person

(i) has been convicted within the preceding five years of an offense listed in paragraph (c) of subdivision four of this section. However, notwithstanding the provisions of subdivision three of section seven hundred one of the correction law. Such disqualification shall be waived provided that the applicant has been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a

court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate.

(ii) has been convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce;

(iii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside of this state within any ten year period on or after September fifteenth, nineteen hundred eighty-five, which would constitute a violation of section eleven hundred ninety-two of this chapter; or

(iv) has been convicted of leaving the scene of an accident which resulted in personal injury or death under subdivision two of section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of subdivision two of section six hundred of this chapter; or

(v) has been convicted of a violation of section 120.04, 120.04-a, 125.13, 125.14 or 235.07 of the penal law.

(d) for a period of five years from the date of last conviction, if that person has been convicted of a violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five;

(e) for a period of one year, if that person accumulates nine or more points on his or her driving record for acts occurring during an eighteen month period, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course.

(f) for a period of one year, if that person was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required;

(g) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test.

(h) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months.

(3) A person shall be disqualified from operating a school bus if that person has had any license, permit, or privilege to operate a motor vehicle suspended, revoked, withdrawn or denied and such license, permit or privilege has not been reinstated by the authority which took such action. Provided, however, that the provisions of this subdivision shall not apply to a person whose (i) license, permit or privilege to operate a motor vehicle cannot be reinstated because of non-residency in the state in which the license was suspended, revoked, withdrawn or denied or (ii) a person holds a conditional driver's license or a restricted use license issued by the commissioner pursuant to the provisions of article twenty-one or twenty-one-A of this chapter, and is not disqualified under any other provision of this article.

(4) (a) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (a) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22,

125.25, 125.26, 125.27, 130.30, 130.35, former sections 130.45 and 130.50, sections 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 230.34-a, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

(b) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (b) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10, 125.11, former section 130.40, sections 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

(c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, subdivision two of section 222.50, subdivision two of section 222.55, 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the

aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

(5) As a part of such determination concerning whether an individual is disqualified from operating a school bus pursuant to this section, the department shall submit a prospective driver's fingerprints to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may submit such fingerprints to the federal bureau of investigation for a national criminal history record check.

§ 509-d. Qualification procedures for bus drivers, maintenance of files and availability to subsequent employers. (1) Before employing a new bus driver a motor carrier shall:

(i) require such person to pass a medical examination to drive a bus as provided in section five hundred nine-g of this article;

(ii) obtain a driving record from the appropriate agency in every state in which the person resided or worked and/or held a driver's license or learner's permit during the preceding three years in a manner prescribed by the commissioner;

(iii) investigate the person's employment record during the preceding three years in a manner prescribed by the commissioner.

(2) Investigations and inquiries of drivers of school buses; maintenance of file; availability to subsequent employer. (a) A motor carrier shall request the department to initiate a criminal history check for persons employed as drivers of school buses, as defined in paragraph (a) of subdivision one of section five hundred nine-a of this chapter, on September fourteenth, nineteen hundred eighty-five by such motor carrier, in accordance with regulations of the commissioner by requiring such school bus drivers to submit to the mandated fingerprinting procedure. The department of motor vehicles at the request of the motor carrier shall initiate a criminal history check of all current school bus drivers of such motor carrier as well as those hired on or after September fifteenth, nineteen hundred eighty-five by requiring such drivers and applicants to submit to the mandated

fingerprinting procedure as part of the school bus driver qualification procedure. Such fingerprinting procedure and the related fee as well as a procedure for the return of such fingerprints upon application of a person who has terminated employment as a school bus driver shall be established in accordance with regulations of the commissioner in consultation with the commissioner of the division of criminal justice services. The fee to be paid by or on behalf of the school bus driver or applicant shall be no more than five dollars over the cost to the commissioner for the criminal history check. No cause of action against the department, the division of criminal justice services, a motor carrier or political subdivision for damages related to the dissemination of criminal history records pursuant to this section shall exist when such department, division, motor carrier or political subdivision has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. Fingerprints submitted to the division of criminal justice services pursuant to this subdivision may also be submitted to the federal bureau of investigation for a national criminal history record check.

(b) After a motor carrier has completed the procedures set forth in paragraph (a) this of subdivision, it shall designate each new school bus driver as a conditional school bus driver as defined in section five hundred nine-h of this article, until the carrier is in receipt of information of the new school bus driver's qualification from the department and the required driving records from each appropriate state agency. If the information received indicates that there is a pending criminal offense or driving violation that would require disqualification of a school bus driver under this article, the motor carrier shall require the applicant to provide documentation evidencing the disposition of such offense or violation in accordance with regulations established by the commissioner. The department, upon notice of disqualification to an applicant, shall include in such notice information regarding the applicant's right to appeal and contest any claimed ground for disqualification. Such notice shall also advise the applicant of his or her right to obtain, examine, inspect and copy any information used by the department in support of its determination of disqualification. In the event the applicant contests the existence of a

criminal conviction in his or her name, such applicant may provide documentation evidencing the disposition of such offense or violation in accordance with regulations established by the commissioner.

(3) Each motor carrier shall retain the following records in each driver's file for a period of three years, in accordance with regulations established by the commissioner:

(i) a driver abstract of operating record provided by the department and the written information provided by the appropriate agency of another state for each twelve month period;

(ii) replies from the department regarding the driver's qualifications, as well as, any subsequent information concerning any pending criminal charges against such driver;

(iii) the initial qualifying medical examination form and the biennial medical examination form completed by the carrier's physician or nurse practitioner;

(iv) the annual defensive driving review forms completed pursuant to section five hundred nine-g of this article; and

(v) the completed biennial behind-the-wheel examination forms as required under section five hundred nine-g of this article.

(4) Each motor carrier shall notify the commissioner on the form and in the manner established by regulation of the commissioner, within ten days, of the date on which a bus driver commences employment, leaves the carrier's employ or is disqualified. Such notification shall be provided in accordance with regulations established by the commissioner and shall include any information the motor carrier has relative to the bus driver's disqualification, including any information regarding criminal charges pending against the driver for violations which would disqualify the driver if a conviction resulted.

(5) Each motor carrier shall furnish the department, by October fifteenth, nineteen hundred eighty-five, a list of all bus drivers employed on September fourteenth, nineteen hundred eighty-five in accordance with regulations established by the commissioner.

(5-a) Every motor carrier shall furnish the department, beginning no later than July first, two thousand twenty-one and annually thereafter, a list of each altered motor vehicle commonly referred to as a "stretch limousine", if any, designed to carry nine or more passengers including the driver that such motor carrier operates pursuant to operating

authority issued by the commissioner of transportation, including the vehicle identification number and registration number of each such altered motor vehicle, and a list of all drivers such motor carrier employs who drive such altered motor vehicles and whether such driver is qualified or has been disqualified to operate such altered motor vehicle pursuant to this article.

(6) Each motor carrier shall furnish the department within ten days of receipt, with a copy of each bus driver's out-of-state driving record it has obtained, if such driver resides in another state, or has been employed in such other state within the past three years.

(7) Each motor carrier shall prepare a report setting forth: (a) the number of miles travelled by buses operated by such motor carrier in the preceding twelve months; (b) the number of convictions and accidents involving any driver employed by such motor carrier during the preceding twelve months, as reported to such carrier pursuant to section five hundred nine-f of this chapter; and (c) the number of convictions and accidents per ten thousand miles travelled. Such report shall be filed with the department as an attachment to the affidavit of compliance required by subdivision (c) of section five hundred nine-j of this chapter, and a copy of such report shall be made available by the carrier to any person upon request.

§ 509-e. Annual review of driving record. Each motor carrier shall, at least once every twelve months, review the driving record of each bus driver it employs to determine whether that driver meets minimum requirements for safe driving and is qualified to drive a bus pursuant to section five hundred nine-b of this article. In reviewing a driving record, the motor carrier must consider any evidence that the bus driver has violated applicable provisions of the vehicle and traffic law. The motor carrier must also consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public. Such information shall be recorded in the employer's record.

§ 509-f. Record of violations. Each motor carrier shall, at least once every twelve months, require each bus driver it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he has forfeited bond or collateral and all accidents of a nature or type set forth in section five hundred nine-a of this article in which the driver was involved during the preceding twelve months whether such violations or accidents occurred in this state or elsewhere. Such information shall be recorded in the employer's record.

§ 509-g. Examinations and tests. Each motor carrier shall require the following from each driver it employs:

1. A biennial examination pursuant to regulations established by the commissioner, by a physician, a certified nurse practitioner to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, or a registered physician assistant who is not the personal physician, nurse practitioner or physician assistant of the driver. Included shall be a requirement to conduct a vision test pursuant to regulations issued by the commissioner.

2. An annual check of the applicant's past driving record, and a personal interview.

3. Regular observation of the driver's defensive driving performance while operating his vehicle with passengers by competent supervisory employees of the carrier, or by competent outside supervisory personnel, with written reports of the observations performed to be maintained in the driver's file.

4. A biennial behind-the-wheel driving test conducted by competent supervisory personnel of the carrier, or competent outside supervisory personnel, to include defensive driving performance. Such driving test

may be conducted during the driver's normal daily operations and shall also include:

(1) Pretrip inspection.

(2) Placing the vehicle in operation.

(3) Use of the vehicle's controls and emergency equipment.

(4) Operating the vehicle in traffic and while passing other vehicles.

(5) Turning the vehicle.

(6) Braking and slowing the vehicle by means other than braking.

(7) Backing and parking the vehicle.

5. In addition to the provisions outlined above, all motor carriers shall require each driver biennially to complete a written or oral examination testing his knowledge of the rules of the road, defensive driving practices and the laws regulating driving a bus in this state. Such examination may be conducted during the driver's normal daily operations.

6. (a) All motor carriers shall be required to conduct pre-employment and random drug and alcohol testing in accordance with the provisions and requirements of Part 382 of Title 49 of the Code of Federal Regulations on all drivers of a school bus, as defined by section one hundred forty-two of this chapter, regardless of commercial driver's license endorsement. Every such school bus driver shall be included in the random testing pool from which drivers are randomly selected for testing, and every such driver shall submit to such testing when selected, as required in Part 382 of Title 49 of the Code of Federal Regulations. For the purposes of this section "motor carriers" shall mean a school or municipality that transports children to and from school or any person, corporation or entity in contract with a municipality or school district for the purposes of transporting children to and from school.

(b) Drug testing administered pursuant to this section shall, at a minimum, be in conformance with drug testing procedures as set forth in Part 382 of Title 49 of the Code of Federal Regulations.

7. In addition to the other provisions of this section, in the event the commissioner authorizes or requires the pre-trip safety briefings

required pursuant to subdivision nine of section five hundred nine-m of this article to be live and in-person, all motor carriers shall conduct a regular observation of the proficiency of each driver who operates altered motor vehicles commonly referred to as "stretch limousines" directed or operated by such motor carrier, designed to carry nine or more passengers including the driver pursuant to operating authority issued by the commissioner of transportation, in providing such pre-trip safety briefings.

§ 509-h. Operation by person not licensed to drive a bus. The motor carrier shall not knowingly permit any person to operate a bus carrying passengers unless the driver meets all of the requirements of this article; except that a motor carrier may permit a conditional school bus driver who is not otherwise disqualified under the provisions of this article to operate a bus for a period not to exceed ninety days or a longer period if granted a written extension of such ninety day period by the department pursuant to regulations established by the commissioner. Such regulation shall authorize extension for at least that period of time necessary to review information regarding the prior criminal history of the applicant.

§ 509-i. Notification of a conviction resulting from a violation of this chapter in this state or a motor vehicle conviction in another state and license revocation. 1. A driver who receives a notice that his or her license, permit or privilege to operate a motor vehicle has been revoked, suspended or withdrawn or who is convicted of a violation of such provisions of this chapter as shall constitute a misdemeanor or a felony in any jurisdiction shall notify the motor carrier that employs such person of the contents of the notice before the end of the business day following the day he or she received it. A driver who fails to notify his or her employer of such suspension, revocation or conviction of a violation of such provisions of this chapter as shall constitute a misdemeanor or a felony shall be subject to a five (5) working day suspension, or a suspension equivalent to the number of working days such driver was not in compliance with this article, whichever is

longer.

1-a. A driver who is convicted of a traffic infraction in any jurisdiction shall notify his or her employer within five (5) working days from the date of conviction. A driver who fails to notify his or her employer of such conviction within the five (5) working day period shall be subject to a five (5) working day suspension; provided, however, that a first such infraction occurring on or before September sixteenth, nineteen hundred eighty-six, shall not subject such violator to the said suspension.

1-b. A driver who is involved in an accident of a nature or type set forth in section five hundred nine-a of this article in any jurisdiction shall notify his or her employer within five working days from the date of the accident. A driver who fails to notify his or her employer of such accident within the five working day period shall be subject to a five working day suspension.

2. Any driver who is convicted of an offense listed in section five hundred nine-c of this article that would disqualify such driver from operating a bus shall provide notice of such conviction in writing by the following business day to the motor carrier that employs such person. The motor carrier shall not permit any driver who fails to provide such notice to operate a bus.

3. The commissioner upon receipt of information that a driver's license, permit or privilege to operate a motor vehicle has been revoked, suspended or withdrawn in this state or elsewhere shall notify all motor carriers who have notified the commissioner of the employment of such driver; and may, if requested by a political subdivision which contracts with a motor carrier for the transportation of school children, provide such notice to the political subdivision.

4. In addition to the requirements of subdivision three of this section, the commissioner shall notify the motor carrier of any conviction for any traffic violation or accident resulting from operation of a motor vehicle against a bus driver employed by the motor

carrier, shall require payment of the fee necessary to defray the cost of the notification, and shall require all motor carriers to establish an escrow account with the department which shall be used to pay for the costs incurred by the department when it informs the motor carrier of a driver's conviction or accident; and may, if requested by a political subdivision which contracts with a motor carrier for the transportation of school children, provide such notice to the political subdivision.

§ 509-j. Compliance required. (a) Every motor carrier, its officers, agents, representatives, and employees responsible for the management, maintenance, operation or driving of motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in and comply with this article.

(b) Nothing contained herein shall prevent a motor carrier or political subdivision from imposing qualifications that are more stringent than those contained in this article or from disqualifying a person who has been issued a conditional or restricted use license pursuant to the provisions of article twenty-one or twenty-one-A of this chapter.

(c) Every motor carrier shall submit an affidavit to the commissioner attesting to compliance with this article. Such affidavit shall be submitted annually, in a manner prescribed by regulations of the commissioner, and shall include as an attachment thereto a copy of the report required by subdivision seven of section five hundred nine-d of this chapter.

(d) Notwithstanding any provision of any other article of this law, where an affidavit is not submitted pursuant to this section, the commissioner may, in his discretion, suspend the registration of the vehicle or the vehicles or deny registration or renewal to the vehicle or vehicles owned or operated by the motor carrier or suspend the motor carrier's privilege of operation in this state. Such suspension or denial shall only remain in effect as long as the motor carrier fails to submit such affidavit.

(e) The commissioner or any person deputized by the commissioner, may require any motor carrier to pay to the people of this state a civil penalty, if after the motor carrier has had an opportunity to be heard,

the commissioner finds that the motor carrier has violated any provision of this article or regulations promulgated therein, or has made any false statement or misrepresentation on any affidavit of compliance filed with the commissioner or with respect to violations of paragraphs (i) and (ii) of subdivision one, paragraphs (a) and (b) of subdivision two, and subdivisions three, four and five of section five hundred nine-d, section five hundred nine-g, section five hundred nine-h and subdivision two of section five hundred nine-l of this article the commissioner may in lieu of or in addition to a civil penalty suspend all of a motor carrier's registrations. Any civil penalty assessed for a first violation shall not be less than five hundred dollars nor greater than two thousand five hundred dollars for each violation, false statement or representation found to have been made or committed, and for a second or subsequent violation, not arising out of the same incident, all of which were committed within a period of eighteen months, shall not be less than five hundred dollars nor greater than five thousand dollars for each violation, false statement or representation found to have been made or committed. If the registrant fails to pay such penalty within twenty days after the mailing of such order, postage prepaid, certified and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the vehicle registrations or out of state registration privilege of operation in the state of such motor carrier or may suspend the same for such periods as the commissioner may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner.

(f) As an alternative to civil action under subdivision (e) of this section and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the same force and effect as a judgment duly docketed in the office of a county clerk and may be enforced in the same manner and with the same effect as that provided by law.

(g) Upon the suspension of a vehicle registration pursuant to subdivision (d) or (e) of this section, the commissioner shall have the authority to deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this article. Such suspension or denial shall remain in effect only as long as the suspension entered pursuant to subdivision (d) or (e) of this section remains in effect.

§ 509-k. Ill or fatigued operator. No driver shall operate a bus and a motor carrier shall not permit a driver to operate a bus while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness or any other cause, as to make it unsafe for such driver to begin or continue to operate the bus. At the request of the driver or the motor carrier such illness, fatigue, or other cause shall be certified by a qualified physician or nurse practitioner. However, in a case of grave emergency where the hazard to occupants of the bus or other users of the highway would be increased by compliance with this section, the driver may continue to operate the bus to the nearest place at which that hazard is removed.

§ 509-l. Drugs, controlled substances and intoxicating liquor. 1. No person shall:

(a) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor or drug, within six hours before going on duty or operating, or having physical control of a bus, or

(b) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, or operating, or in physical control of a bus, or

(c) possess a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, operating or in physical control of a bus. However, this paragraph does not apply to

possession of a drug, controlled substance or an intoxicating liquor which is transported as part of a shipment or personal effects of a passenger or to alcoholic beverages which are in sealed containers.

2. No motor carrier shall require or permit a driver to:

(a) violate any provision of subdivision one of this section; or

(b) be on duty or operate a bus if, by such person's general appearance or by such person's conduct or by other substantiating evidence, such person appears to have consumed a drug, controlled substance or an intoxicating liquor within the preceding six hours, or eight hours when such driver operates a school bus as defined by section one hundred forty-two of this chapter.

§ 509-m. Duties of the department. The department of motor vehicles shall:

1. At least once every three years, review the bus driver files of each motor carrier, provided, however, that the commissioner may review such bus driver files at his discretion at any other time during regular business hours. Provided, however, that the commissioner shall review at least annually the bus driver files of each driver employed by a motor carrier who operates an altered motor vehicle commonly referred to as a "stretch limousine" designed to carry nine or more passengers including the driver pursuant to operating authority issued by the commissioner of transportation, and annually verify whether each such driver holds a valid driver's license valid for the operation of such altered motor vehicle.

2. Establish regulations and forms for the orderly administration of and compliance with this article. Regulations shall also be established which are necessary for implementation of the process for appeal pursuant to subdivision two of section five hundred nine-d of this article.

3. Provide each motor carrier with notice whenever one of the drivers of such motor carrier has received revocation or suspension of a

driver's license, learner's permit or privilege to operate.

4. Provide a motor carrier who has complied with the requirements of subdivision four of section five hundred nine-i of this article with information on any employee of the motor carrier regarding a conviction for a violation of this chapter.

5. Upon receipt of the criminal history record report of a school bus driver, notify the motor carrier of disqualification of an applicant or school bus driver which would or could disqualify such driver under the provisions of section five hundred nine-cc of this article. Notification to the carrier shall be without specification of the grounds for disqualification, those grounds to be made available only to the school bus driver or his or her representative.

6. In order to effectuate the provisions of this article, establish procedures, by regulation, to conduct curbside verification of bus driver and motor carrier identity to determine whether or not such motor carrier has notified the commissioner of the bus driver's employment as required by subdivision four of section five hundred nine-d of this article and whether or not such motor carrier has compiled with the provisions of this article and with any regulations promulgated thereunder; provided, however, such verifications shall be conducted so as not to disrupt the flow of traffic or endanger public safety.

7. The commissioner shall prepare and distribute a form for the provision of objective data concerning the driving history of a bus driver who is subject to regulation under this article. Such form shall be completed by current or former employers of such bus drivers upon the request of a prospective or subsequent employer.

8. Maintain and annually update its website to provide information with regard to each motor carrier that operates altered motor vehicles commonly referred to as "stretch limousines" designed to carry nine or more passengers including the driver pursuant to operating authority issued by the commissioner of transportation that includes the motor carrier's name, location and region of operation including place of

address, whether such motor carrier is in compliance with this article as required by section five hundred nine-j of this article in relation to the operation of such altered motor vehicles, the number and nature of violations of this article resulting in convictions of such motor carrier in relation to the operation of such altered motor vehicles, the number of miles traveled by such altered motor vehicles operated by such motor carrier in the preceding twelve months, and, with respect to drivers employed by such motor carrier operating such altered motor vehicles, the total number so employed, the number holding valid licenses which are valid for the operation of such altered motor vehicles, the number which lack licenses valid for such operation, the number disqualified from operating such altered motor vehicles, the number of convictions and accidents involving any such driver employed by such motor carrier during the preceding twelve months, and the number of convictions and accidents per ten thousand miles traveled.

9. In coordination with the commissioner of transportation and the superintendent of state police, establish and regularly update the form and content of a pre-trip safety briefing for motor carriers that operate altered motor vehicles commonly referred to as "stretch limousines", designed to carry nine or more passengers including the driver pursuant to operating authority issued by the commissioner of transportation, which motor carriers shall provide to passengers prior to transporting such passengers for hire in such stretch limousines.

§ 509-n. Exempt carriers; reporting requirements. 1. A motor carrier subject to the motor carrier regulations of the United States department of transportation will be exempt from all of the annual and biennial requirements of this article, except the annual requirement which mandates that an affidavit of compliance be filed with the commissioner, provided that (i) such motor carrier does not operate in this state a school bus as defined in section one hundred forty-two of this chapter or a bus used for the transportation of persons under the age of twenty-one or persons of any age who are mentally disabled to a place of vocational, academic or religious instruction or religious service including nursery schools, day care centers and camps or (ii) such motor

carrier did not operate in the state during the previous calendar year more than one hundred days or more than ten thousand bus vehicle miles. Provided, however, for the purpose of this subdivision a school bus shall not mean a bus operated by a motor carrier subject to the motor carrier regulations of the United States department of transportation, that occasionally transports pupils or persons of any age who are mentally disabled and who are not residents of this state on chaperoned chartered trips in New York state.

2. A motor carrier subject to the motor carrier regulations of the United States department of transportation who is not exempt pursuant to the provisions of subdivision one of this section may apply to the commissioner for a waiver for those bus drivers, other than those drivers who operate a school bus as defined in section one hundred forty-two of this chapter or a bus used for the transportation of persons under the age of twenty-one to a place of vocational, academic or religious instruction or service including schools and camps, who operate a bus in this state less than thirty days each year. Such application shall include a description of a training and qualifying program which has demonstrated the motor carrier's procedures for qualifying bus drivers. Such program shall include an appropriate health and driving record review and such other information as shall be required by the commissioner to satisfy the intent of this article in an effective manner.

3. The annual affidavit of compliance required under subdivision one shall certify to the commissioner that the motor carrier does not employ a bus driver who would operate a bus in New York state and who is disqualified under section five hundred nine-c of this article, and also shall certify the number of days and vehicle miles of bus service that the carrier provided in the state during the previous calendar year. A motor carrier exempted by this section shall furnish to the commissioner upon request any records concerning drivers required to be kept by the motor carrier regulations of the United States department of transportation within ten days of receipt of such request. Failure of a motor carrier to furnish such records requested within the ten day period shall be a violation of this article.

§ 509-o. Penalties. Upon conviction for the violation of any provision of this article the court shall impose a sentence consisting of a fine of not less than one hundred dollars nor more than two hundred fifty dollars.

ARTICLE 19-B

SPECIAL REQUIREMENTS FOR COMMERCIAL MOTOR CARRIERS

Section 509-p. Definitions.
509-q. Application for employment.
509-r. Investigations and inquiries.
509-s. Annual review of driving record.
509-t. Record of violations.
509-u. Commercial driver qualification files.
509-v. Investigation of motor carrier files.
509-w. Penalties.
509-x. Exemptions.
509-y. Rules and regulations.
509-z. Motor carrier information.

§ 509-p. Definitions. As used in this article, the term:

1. "Commercial motor vehicle" shall mean a motor vehicle or combination of vehicles having a gross combination weight rating of more than ten thousand pounds used in commerce to transport property and it shall include a tow truck with a gross vehicle weight rating of at least eighty-six hundred pounds.

2. "Gross vehicle weight rating" or "GVWR" shall mean the weight of a vehicle consisting of the unladen weight and the maximum carrying capacity recommended by the manufacturer of such vehicle. The GVWR of a combination of vehicles commonly referred to as the gross combination weight rating or GCWR is the GVWR of the power unit plus the GVWR of each vehicle in the combination.

3. "Commercial driver" shall mean every person who is self-employed or employed by a commercial motor carrier and who drives a commercial motor vehicle for hire or profit.

4. "Commercial motor carrier" shall mean any person, corporation, or entity, who directs one or more commercial motor vehicles and who operates a commercial motor vehicle wholly within or partly within and partly without this state in connection with the operation or administration of any business.

§ 509-q. Application for employment. A commercial driver not subject to the provisions of article nineteen-A of this chapter or to the provisions of section fourteen-f of the transportation law and hired on and after the effective date of this article shall not operate a commercial motor vehicle unless such driver has furnished the commercial motor carrier that employs the driver with a completed application for employment. Every commercial motor carrier shall prepare an application for employment which shall comply with rules and regulations of the commissioner of transportation.

§ 509-r. Investigations and inquiries. Every commercial motor carrier shall make an investigation and inquiry of each commercial driver it hires on and after the effective date of this article in accordance with rules and regulations of the commissioner of transportation.

§ 509-s. Annual review of driving record. Each commercial motor carrier shall, at least once every twelve months, review the driving record of each commercial driver it employs to determine whether such driver meets minimum requirements for safe driving or is to be disqualified to drive a commercial motor vehicle in accordance with this chapter or with rules and regulations of the commissioner of transportation.

§ 509-t. Record of violations. Each commercial motor carrier shall, at least every twelve months, require each commercial driver it employs to prepare and furnish it with a record of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which such driver has been convicted or on account of which the commercial driver has forfeited bond or collateral during the preceding twelve months in accordance with rules and regulations of the commissioner of transportation.

§ 509-u. Commercial driver qualification files. Each commercial motor carrier shall maintain a commercial driver qualification file for each commercial driver it employs in accordance with rules and regulations of the commissioner of transportation; provided, however, that such a file need not include a medical examiner certificate of a commercial driver's physical qualification to drive a commercial motor vehicle.

§ 509-v. Investigation of motor carrier files. The commissioner and the commissioner of transportation shall have the authority to examine or investigate the operation of commercial motor carriers and their compliance with rules and regulations promulgated pursuant to this article and article six of the transportation law.

§ 509-w. Penalties. Upon conviction for a violation of any provision of this article or the rules and regulations of the commissioner of transportation promulgated pursuant thereto, the court shall impose a sentence consisting of a fine of not less than two hundred fifty dollars nor more than one thousand dollars.

§ 509-x. Exemptions. The commissioner of transportation shall have the authority, pursuant to rules and regulations, to exempt certain commercial motor carriers or commercial drivers from the provisions of this article in accordance with federal rules and regulations.

§ 509-y. Rules and regulations. The commissioner of transportation, in consultation with the commissioner, is hereby authorized to adopt rules and regulations to implement the provisions of this article which shall be no less protective of public safety than the rules and regulations promulgated by the federal government with respect to the qualifications and disqualifications of drivers.

§ 509-z. Motor carrier information. The commissioner of transportation, in consultation with the commissioner, shall establish requirements for any person or entity that owns and operates one or more altered motor vehicles, commonly referred to as "stretch limousines", for purposes of establishing conspicuous display of valid operating authority, inspection information, and driver qualifications at locations where such persons or entities perform contract or common carrier services with altered motor vehicles and within any altered motor vehicle used to provide such services.

ARTICLE 20

SUSPENSION AND REVOCATION

Section 510. Suspension, revocation and reissuance of licenses and registrations.

510-a. Suspension and revocation of commercial driver's licenses.

510-aa. Downgrade of commercial driver's licenses.

510-b. Suspension and revocation for violations committed during probationary periods.

510-c. Suspension and revocation of learner's permits and driver's licenses for violations committed by holders of class DJ or class MJ learner's permits or licenses.

510-d. Suspension and revocation of class E driver's licenses.

511. Operation while license or privilege is suspended or revoked; aggravated unlicensed operation.

511-a. Facilitating aggravated unlicensed operation of a motor

vehicle.
511-b. Seizure and redemption of unlawfully operated vehicles.
511-c. Seizure and forfeiture of vehicles used in the unlicensed operation of a motor vehicle under certain circumstances.
511-d. Aggravated failure to answer appearance tickets or pay fines imposed.
512. Operation while registration or privilege is suspended or revoked.
513. Certificate of magistrate.
514. Certifying convictions, forfeitures and nonappearances to the commissioner and recording convictions.
514-a. Notification of convictions, suspensions, revocations, cancellations and disqualifications by commercial motor vehicle operators.
514-b. Certification of convictions, suspensions, revocations and disqualifications.
514-c. Notification of non-resident commercial operator convictions.
515. Alteration of convictions endorsed on licenses.
516. Driver license compact.
516-a. Reciprocal driver license agreements with provinces of Canada.
516-b. Reciprocal agreements concerning reporting of traffic offenses and administrative action thereon.
517. Interstate compact guaranteeing appearance.
518. Reciprocal agreements concerning suspension or revocation of registration of a motor vehicle for violations of toll collection regulations.

§ 510. Suspension, revocation and reissuance of licenses and registrations. 1. Who may suspend or revoke. Any magistrate, justice or judge, in a city, in a town, or in a village, any supreme court justice, any county judge, any judge of a district court, the superintendent of state police and the commissioner of motor vehicles or any person deputized by him, shall have power to revoke or suspend the license to

drive a motor vehicle or motorcycle of any person, or in the case of an owner, the registration, as provided herein.

A learner's permit, or a license which has expired but is renewable, shall be deemed a license within the meaning of this section.

2. Mandatory revocations and suspensions. a. Mandatory revocations. Such licenses shall be revoked and such registrations may also be revoked where the holder is convicted:

(i) of homicide or assault arising out of the operation of a motor vehicle or motorcycle or criminal negligence in the operation of a motor vehicle or motorcycle resulting in death, whether the conviction was had in this state or elsewhere;

(ii) pursuant to section twenty-three hundred eighty-five of title eighteen of the United States code, of the crime of advocating the overthrow of government, whether the conviction was had in this state or elsewhere;

(iii) of any violation of subdivision two of section six hundred or section three hundred ninety-two or of a local law or ordinance making it unlawful to leave the scene of an accident without reporting;

(iv) of a third or subsequent violation, committed within a period of eighteen months, of any provision of section eleven hundred eighty of this chapter, any ordinance or regulation limiting the speed of motor vehicles and motorcycles or any provision constituted a misdemeanor by this chapter, not included in subparagraphs (i) or (iii) of this paragraph, except violations of subdivision one of section three hundred seventy-five of this chapter or of subdivision one of section four hundred one of this chapter and similar violations under any local law, ordinance or regulation committed by an employed driver if the offense occurred while operating, in the course of his employment, a vehicle not owned by said driver, whether such three or more violations were repetitions of the same offense or were different offenses;

(v) of a violation for the conviction of which any such license is subject to revocation under subdivision two of section five hundred ten-b;

(vi) of a violation of any provision of section eleven hundred eighty-two of this chapter;

(vii) of a second violation of any provision of section eleven hundred eighty-two committed within a period of three years of a previous violation of the aforesaid section shall result in a license revocation of one year;

(viii) of a third violation, committed within a period of three years, of any provision of subdivision a of section eleven hundred seventy-four of this chapter;

(ix) of a violation of section twelve hundred twenty-four of this chapter, other than a violation adjudicated by the environmental control board of a city having a population of one million or more pursuant to subdivision seven of such section, and fails to pay the fine imposed thereon pursuant to subdivision seven of such section;

(x) of a traffic infraction for a subsequent violation of article twenty-six of this chapter and the commission of such violation caused serious physical injury to another person and such subsequent violation occurred within eighteen months of a prior violation of any provision of article twenty-six of this chapter where the commission of such prior violation caused the serious physical injury or death of another person;

(xi) of a traffic infraction for a subsequent violation of article twenty-six of this chapter and the commission of such violation caused the death of another person and such subsequent violation occurred within eighteen months of a prior violation of any provision of article twenty-six of this chapter where the commission of such prior violation caused the serious physical injury or death of another person;

(xii) of a second or subsequent conviction of a violation of section twelve hundred twenty-five-c or section twelve hundred twenty-five-d of this chapter committed where such person is the holder of a probationary license, as defined in subdivision four of section five hundred one of this title, at the time of the commission of such violation and such second or subsequent violation was committed within six months following the restoration or issuance of such probationary license; or

(xiii) of a second or subsequent conviction of a violation of section twelve hundred twenty-five-c or section twelve hundred twenty-five-d of this chapter committed where such person is the holder of a class DJ or MJ learner's permit or a class DJ or MJ license at the time of the commission of such violation and such second or subsequent violation was committed within six months following the restoration of such permit or

license.

b. Mandatory suspensions. Such licenses shall be suspended, and such registrations may also be suspended:

(i) for a period of sixty days where the holder is convicted of a violation for the conviction of which such license is subject to suspension pursuant to subdivision one of section five hundred ten-b;

(ii) when the holder forfeits bail given upon being charged with any of the offenses mentioned in this subdivision, until the holder submits to the jurisdiction of the court in which he forfeited bail; and

(iii) such registrations shall be suspended when necessary to comply with subdivision nine of section one hundred forty or subdivision four of section one hundred forty-five of the transportation law or with an out of service order issued by the United States department of transportation. The commissioner shall have the authority to deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where it has been determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Any suspension issued pursuant to this subdivision by reason of an out of service order issued by the United States department of transportation shall remain in effect until such time as the commissioner is notified by the United States department of transportation or the commissioner of transportation that the order resulting in the suspension is no longer in effect.

(iv) For a period of not less than thirty nor greater than one hundred eighty days where the holder is convicted of the crime of assault in the first, second or third degree as defined in article one hundred twenty of the penal law, where such offense was committed against a traffic enforcement agent employed by the city of New York or the city of Buffalo while such agent was enforcing or attempting to enforce the traffic regulations of such city.

(vi) for a period of sixty days where the holder is convicted of a violation of subdivision one of section twelve hundred twenty-b of this chapter within a period of eighteen months of a previous violation of

such subdivision.

(vii) for a period of ninety days where the holder is convicted of a violation of subdivision one of section twelve hundred twenty-b of this chapter within a period of eighteen months of two or more previous violations of such subdivision.

(ix) For a period of three months where the holder is sentenced to a license suspension pursuant to paragraph (a) of subdivision five of section sixty-five-b of the alcoholic beverage control law, provided however, that, in accordance with such subdivision five, such suspension shall be only a license suspension.

(x) For a period of six months where the holder is sentenced to a license suspension pursuant to paragraph (b) of subdivision five of section sixty-five-b of the alcoholic beverage control law, provided however, that, in accordance with such subdivision five, such suspension shall be only a license suspension.

(xi) For a period of one year or until the holder reaches the age of twenty-one, whichever is the greater period of time, where the holder is sentenced to a license suspension pursuant to paragraph (c) of subdivision five of section sixty-five-b of the alcoholic beverage control law, provided however, that, in accordance with such subdivision five, such suspension shall be only a license suspension.

(xii) for a period of one year where the holder is convicted of, or receives a youthful offender or juvenile delinquency adjudication in connection with a violation of section 240.62 or subdivision five of section 240.60 of the penal law.

(xiii) for a period of sixty days where the holder is convicted of two or more violations of paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this chapter.

(xiv) for a period of forty-five days where the holder is convicted of a traffic infraction for a first violation of article twenty-six of this chapter and the commission of such violation caused serious physical injury to another person, except: (A) where the holder is convicted of a traffic infraction for a first violation of section eleven hundred forty-six of this chapter and the commission of such violation caused serious physical injury to another person, the suspension shall be for a period of six months; and (B) where the holder is convicted of a traffic infraction for a second violation of section eleven hundred forty-six of

this chapter and the commission of such violation caused serious physical injury to another person, and such person has previously been convicted of a traffic infraction for a violation of section eleven hundred forty-six of this chapter and the commission of such violation caused serious physical injury to another person within five years, the suspension shall be for a period of one year.

(xv) for a period of seventy-five days where the holder is convicted of a traffic infraction for a first violation of article twenty-six of this chapter and the commission of such violation caused the death of another person.

(xvi) for a period of one hundred twenty days where the holder is convicted of a violation of section twelve hundred twenty-five-c or section twelve hundred twenty-five-d of this chapter when such violation was committed while such holder had a probationary license, as defined in subdivision four of section five hundred one of this title.

(xvii) for a period of one hundred twenty days where the holder is convicted of a violation of section twelve hundred twenty-five-c or section twelve hundred twenty-five-d of this chapter when such violation was committed while such holder had a class DJ or MJ learner's permit or a class DJ or MJ license.

c. Application of mandatory revocations and suspensions to non-residents and to unlicensed persons. Whenever a non-resident or a person who is unlicensed is convicted of any violation or receives a youthful offender or juvenile delinquency adjudication in conjunction with a violation of section 240.62 or subdivision five of section 240.60 of the penal law, which would require the revocation or suspension of a license, pursuant to the provisions of this chapter, if the person so convicted or adjudicated was the holder of a license issued by the commissioner, such non-resident's privilege of operating a motor vehicle in this state or such unlicensed person's privilege of obtaining a license issued by the commissioner shall be revoked or suspended, and such non-resident's privilege of operation within this state of any motor vehicle owned by such person or such unlicensed person's privilege of obtaining a registration issued by the commissioner may be suspended as if such non-resident or unlicensed person was the holder of a license issued by the commissioner. The provisions of subdivisions six and seven

of this section shall be applicable to any such suspension or revocation.

d. Mandatory suspensions; vehicles over eighteen thousand pounds. A license or privilege shall be suspended by the commissioner for a period of sixty days, where the holder is convicted of a violation of subdivision (g) of section eleven hundred eighty of this chapter, and (i) the recorded or entered speed upon which the conviction was based exceeded the applicable speed limit by more than twenty miles per hour or (ii) the recorded or entered speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour and the vehicle was either (A) in violation of any rules or regulations involving an out-of-service defect relating to brake systems, steering components and/or coupling devices, or (B) transporting flammable gas, radioactive materials or explosives. Whenever a license is suspended pursuant to this paragraph, the commissioner shall immediately issue a restricted license provided the holder of such license is otherwise eligible to receive such restricted license, except that no such restricted license shall be valid for the operation of a vehicle with a GVWR of more than eighteen thousand pounds and further provided that issuing a license to such person does not create a substantial traffic safety hazard.

2-a. Mandatory suspension and revocation of a license and registration in certain cases. (a) Within seven days after conviction for a violation of any local law which prohibits the knowing operation or offering to operate or permitting the operation for hire of any vehicle as a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van or tow truck within the state without first having obtained an appropriate license therefor from the appropriate licensing authority and appropriate for-hire insurance from the appropriate insurance agency, the taxi and limousine commission or other local body having jurisdiction over such offenses with respect to such vehicles shall provide notice of such conviction to the commissioner in a manner agreed upon between any such local body and the commissioner. Upon receipt of such notice, the commissioner shall suspend the license of such operator and the

registration of such vehicle for a period of sixty days.

(b) Within seven days after conviction for a violation of any local law which prohibits the knowing operation or offering to operate or permitting the operation for hire of any vehicle as a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van or tow truck within the state without first having obtained an appropriate license therefor from the appropriate licensing authority and appropriate for-hire insurance from the appropriate insurance agency where the operator has, within the previous five years, been convicted of any such violation, the taxi and limousine commission or other local body having jurisdiction over such offenses with respect to such vehicles shall provide notice to the commissioner in a manner agreed upon between any such local body and the commissioner. Upon receipt of such notice, the commissioner shall revoke the license of such operator.

(c) Within seven days after conviction for a violation of any local law which prohibits the knowing operation or offering to operate or permitting the operation for hire of any vehicle as a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van or tow truck within the state without first having obtained an appropriate license therefor from the appropriate licensing authority and appropriate for-hire insurance from the appropriate insurance agency where the registrant has, within the previous five years, been convicted of any such violation, the taxi and limousine commission or other local body having jurisdiction over such offenses with respect to such vehicles shall provide notice to the commissioner in a manner agreed upon between any such local body and the commissioner. Upon receipt of such notice, the commissioner shall revoke the registration of such vehicle, and no new registration shall be issued for at least six months, nor thereafter, except in the discretion of the commissioner.

(d) The provisions of this subdivision shall not apply to any taxicab or livery as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van or tow truck licensed or permitted for such operation by the appropriate local body of any other municipality, the department of transportation, the metropolitan transportation authority or the interstate commerce

commission.

3. Permissive suspensions and revocations. Such licenses and registrations and the privilege of a non-resident of operating a motor vehicle in this state and of operation within this state of any motor vehicle owned by him and the privilege of an unlicensed person of obtaining a license issued by the commissioner and of obtaining a registration issued by the commissioner may be suspended or revoked:

a. for any violation of the provisions of this chapter, except section eleven hundred ninety-two, or for any violation of a local ordinance or regulation prohibiting dangerous driving as shall, in the discretion of the officer acting hereunder, justify such revocation or suspension;

b. because of some physical or mental disability of the holder, the court commitment of the holder to an institution under the jurisdiction of the department of mental hygiene or the disability of the holder by reason of intoxication or the use of drugs;

c. because of the conviction of the holder at any time of a felony;

d. for habitual or persistent violation of any of the provisions of this chapter, or of any lawful ordinance, rule or regulation made by local authorities in relation to traffic;

e. for gross negligence in the operation of a motor vehicle or motorcycle or operating a motor vehicle or motorcycle in a manner showing a reckless disregard for life or property of others;

f. for knowingly permitting or suffering any motor vehicle or motorcycle under the direction or control of the holder to be used in aid or furtherance of the commission of any crime;

g. for preventing lawful identification of any motor vehicle or motorcycle under the holder's direction or control, or evading lawful arrest or prosecution while operating such motor vehicle or motorcycle;

h. for wilfully evading lawful prosecution in this state or in another state or jurisdiction for an offense committed therein against the motor vehicle or traffic laws thereof;

i. for habitual or persistent violation of any provisions of this chapter, and/or any lawful ordinance, rule or regulation made by local authorities in relation to traffic, and/or violations committed in a commercial motor vehicle of any law, statute, ordinance, rule or regulation in relation to traffic made by any other state, District of Columbia, Canadian province or local authority of such state, district or province;

j. except as provided in subdivision one herein or section eleven hundred ninety-three of this chapter upon the conviction of a person under eighteen years of age of any crime or in the case of an adjudication of youthful offender under nineteen years of age, such license or registration may be suspended or revoked for a maximum period of one year by the judge or justice sentencing him;

k. for a period of up to ninety days because of the conviction of the holder of the offenses of menacing as defined in section 120.15 of the penal law, where such offense was committed against a traffic enforcement agent employed by the city of New York or the city of Buffalo while such agent was enforcing or attempting to enforce the traffic regulations of such city.

3-a. Opportunity to be heard and temporary suspensions. Where revocation or suspension is permissive, the holder, unless he shall waive such right, shall have an opportunity to be heard except where such revocation or suspension is based solely on a court conviction or convictions or on a court commitment to an institution under the jurisdiction of the department of mental hygiene. A license or registration, or the privilege of a non-resident of operating a motor vehicle in this state or of the operation within this state of any motor vehicle owned by him, may, however, be temporarily suspended without notice, pending any prosecution, investigation or hearing.

4. Administrative action pursuant to interstate compact. a. Such licenses may be suspended where pursuant to any compact or agreement authorized by section five hundred seventeen of this chapter the holder thereof is issued a summons for a moving traffic violation, is not detained or required to furnish bail or collateral and fails to appear in response to such summons. Such suspension shall remain in effect only until such holder submits to the jurisdiction of the court in which such summons is returnable.

b. If notification is received by the commissioner pursuant to any compact or agreement authorized by section five hundred sixteen-b of this article that the holder of a New York license or an unlicensed New York resident has been convicted of an offense set forth in such compact or agreement, such conviction, for the purpose of administrative action which must or may be taken by the commissioner pursuant to the provisions of this section, shall be deemed to be a conviction of an offense committed within this state in accordance with the provisions of such compact or agreement.

4-a. Suspension for failure to answer an appearance ticket. (a) Upon receipt of a court notification of the failure of a person to appear within sixty days of the return date or new subsequent adjourned date, pursuant to an appearance ticket charging said person with a violation of any of the provisions of this chapter (except one for parking, stopping, or standing), of any violation of the tax law or of the transportation law regulating traffic or of any lawful ordinance or regulation made by a local or public authority, relating to traffic (except one for parking, stopping, or standing) the commissioner or his or her agent may suspend the driver's license or privileges of such person pending receipt of notice from the court that such person has appeared in response to such appearance ticket or has paid or has entered into an installment payment plan to pay the fine associated with a conviction entered as a result of the failure to appear in response to such appearance ticket, or the defendant has been acquitted of the charge that led to the suspension or such charge was otherwise dismissed. Such suspension shall take effect no less than thirty days from the day upon which an initial notice thereof is sent by the

commissioner to the person whose driver's license or privileges are to be suspended, provided that the commissioner shall send such person at least two notices thereof, including such initial notice, at least fifteen days apart during such period. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-l) of subdivision two of section five hundred three of this chapter.

(b) The provisions of paragraph (a) of this subdivision shall not apply to a registrant who was not operating a vehicle, but who was issued a summons or an appearance ticket for a violation of section three hundred eighty-five, section four hundred one or section five hundred eleven-a of this chapter. Upon the receipt of a court notification of the failure of such person to appear within sixty days of the return date or a new subsequent adjourned date, pursuant to an appearance ticket charging said person with such violation, or the failure of such person to pay a fine imposed by a court, the commissioner or his or her agent may suspend the registration of the vehicle or vehicles involved in such violation or privilege of operation of any motor vehicle owned by the registrant pending receipt of notice from the court that such person has appeared in response to such appearance ticket or has paid such fine. Such suspension shall take effect no less than thirty days from the day upon which notice thereof is sent by the commissioner to the person whose registration or privilege is to be suspended. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

(c) Upon receipt of notification from a traffic and parking violations agency or a traffic violations agency of the failure of a person to appear within sixty days of the return date or new subsequent adjourned date, pursuant to an appearance ticket charging said person with a violation of:

(i) any of the provisions of this chapter except one for parking, stopping or standing and except those violations described in paragraphs (a), (b), (d), (e) and (f) of subdivision two and in paragraphs (a), (b), (d), (e), (f) and (g) of subdivision two-a and in paragraphs (a), (b), (d), (e), (f) and (g) of subdivision two-b of section three hundred seventy-one of the general municipal law;

(ii) section five hundred two or subdivision (a) of section eighteen

hundred fifteen of the tax law;

(iii) section fourteen-f (except paragraph (b) of subdivision four of section fourteen-f), two hundred eleven or two hundred twelve of the transportation law; or

(iv) any lawful ordinance or regulation made by a local or public authority relating to traffic (except one for parking, stopping or standing), the commissioner or his or her agent may suspend the driver's license or privileges of such person pending receipt of notice from the agency that such person has appeared in response to such appearance ticket or has paid or has entered into an installment payment plan to pay the fine associated with a conviction entered as a result of the failure to appear in response to such appearance ticket, or the defendant has been acquitted of the charge that led to the suspension or such charge was otherwise dismissed. Such suspension shall take effect no less than thirty days from the day upon which an initial notice thereof is sent by the commissioner to the person whose driver's license or privileges are to be suspended, provided that the commissioner shall send such person at least two notices thereof, including such initial notice, at least fifteen days apart during such period. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

4-b. Suspension of registration for failure to answer or to pay fines with respect to certain violations. Upon receipt of certification from a court or administrative tribunal of appropriate jurisdiction that the owner of a motor vehicle or his representative failed to appear on the return date or dates or any subsequent adjourned date or dates or failed to comply with the rules and regulations of an administrative tribunal following entry of a final decision or decisions in response to twenty-five or more summonses or other process, issued within an eighteen month period charging that such motor vehicle is parked, stopped or standing in violation of any of the provisions of this chapter or of any law, ordinance, rule or regulation made by a local authority, the commissioner shall suspend the registration of such motor vehicle. Such suspension shall take effect no less than thirty days from the date on which notice thereof is sent by the commissioner to the

person whose registration is to be suspended and shall remain in effect as long as the summmons or summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following the entry of a final decision or decisions.

* 4-c. Suspension of registration for failure to answer or to pay fines with respect to parking, stopping and standing violations. Upon receipt of certification from a court or administrative tribunal of appropriate jurisdiction in a city with a population in excess of one hundred thousand persons according to the nineteen hundred eighty United States census that the owner of a motor vehicle or his representative following compliance by such city with the notice provisions of subdivision two of section two hundred thirty-five of this chapter, failed to appear on the return date or dates or any subsequent adjourned date or dates or failed to comply with the rules and regulations of an administrative tribunal following entry of a final decision or decisions, in response to five or more summonses or other process, issued within a twelve month period charging that such motor vehicle is parked, stopped or standing in violation of any of the provisions of this chapter or of any law, ordinance, rule or regulation made by a local authority, the commissioner shall suspend the registration of such motor vehicle. Such suspension shall take effect no less than thirty days from the date on which notice thereof is sent by the commissioner to the person whose registration is to be suspended and shall remain in effect as long as the summons or summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following the entry of a final decision or decisions.

* NB Repealed September 1, 2027

4-d. Suspension of registration for failure to answer or pay penalties with respect to certain violations. Upon the receipt of a notification from a court or an administrative tribunal that an owner of a motor vehicle failed to appear on the return date or dates or a new subsequent adjourned date or dates or failed to pay any penalty imposed by a court or failed to comply with the rules and regulations of an administrative tribunal following entry of a final decision or decisions, in response

to five or more notices of liability or other process, issued within an eighteen month period charging such owner with a violation of toll collection regulations in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, the commissioner or his agent shall suspend the registration of the vehicle or vehicles involved in the violation or the privilege of operation of any motor vehicle owned by the registrant. Such suspension shall take effect no less than thirty days from the date on which notice thereof is sent by the commissioner to the person whose registration or privilege is suspended and shall remain in effect until such registrant has appeared in response to such notices of liability or has paid such penalty or in the case of an administrative tribunal, the registrant has complied with the rules and regulations following the entry of a final decision or decisions.

* 4-e. Suspension and disqualification for failure to make child support payments or failure to comply with a summons, subpoena or warrant relating to a paternity or child support proceeding. (1) The commissioner, on behalf of the department, shall enter into a written agreement with the commissioner of the office of temporary and disability assistance, on behalf of the office of temporary and disability assistance, which shall set forth the procedures for suspending the driving privileges of individuals who have failed to make payments of child support or combined child and spousal support.

(2) Such agreement shall include:

(i) the procedure under which the office of temporary and disability assistance shall notify the department of an individual's liability for support arrears;

(ii) the procedure under which the department shall be notified by the office of temporary and disability assistance that an individual has satisfied or commenced payment of his or her support arrears; or has made satisfactory payment arrangements thereon and shall have the suspension of his or her driving privileges terminated;

(iii) the procedure for reimbursement of the department and its agents by the office of temporary and disability assistance for the full additional costs of carrying out the procedures authorized by this

section, and may include, subject to the approval of the director of the budget, a procedure for reimbursement of necessary additional costs of collecting social security numbers pursuant to section five hundred two of this title;

(iv) provision for the publicizing of sanctions for nonpayment of child support including the potential for the suspension of delinquent support obligors' driving privileges if they fail to pay child support or combined child and spousal support; and

(v) such other matters as the parties to such agreement shall deem necessary to carry out provisions of this section.

(3) Upon receipt of notification from the office of temporary and disability assistance of a person's failure to satisfy support arrears or to make satisfactory payment arrangements thereon pursuant to paragraph (e) of subdivision twelve of section one hundred eleven-b of the social services law or notification from a court issuing an order pursuant to section four hundred fifty-eight-a of the family court act or section two hundred forty-four-b of the domestic relations law, the commissioner or his or her agent shall suspend the license of such person to operate a motor vehicle. In the event such person is unlicensed, such person's privilege of obtaining a license shall be suspended. Such suspension shall take effect no later than fifteen days from the date of the notice thereof to the person whose license or privilege of obtaining a license is to be suspended, and shall remain in effect until such time as the commissioner is advised that the person has satisfied the support arrears or has made satisfactory payment arrangements thereon pursuant to paragraph (e) of subdivision twelve of section one hundred eleven-b of the social services law or until such time as the court issues an order to terminate such suspension;

(4) From the time the commissioner is notified by the office of temporary and disability assistance of a person's liability for support arrears under this section, the commissioner shall be relieved from all liability to such person which may otherwise arise under this section, and such person shall have no right to commence a court action or proceeding or to any other legal recourse against the commissioner to recover such driving privileges as authorized by this section. In addition, notwithstanding any other provision of law, such person shall have no right to a hearing or appeal pursuant to this chapter with

respect to a suspension of driving privileges as authorized by this section. However, nothing herein shall be construed to prohibit such person from proceeding against the support collection unit pursuant to article seventy-eight of the civil practice law and rules.

(5) Any person whose license has been suspended pursuant to subdivision three of this section may apply for the issuance of a restricted use license as provided in section five hundred thirty of this title.

* NB Repealed August 31, 2027

4-f. Suspension for failure to pay past-due tax liabilities. (1) The commissioner shall enter into a written agreement with the commissioner of taxation and finance, as provided in section one hundred seventy-one-v of the tax law, which shall set forth the procedures for suspending the drivers' licenses of individuals who have failed to satisfy past-due tax liabilities as such terms are defined in such section.

(2) Upon receipt of notification from the department of taxation and finance that an individual has failed to satisfy past-due tax liabilities, or to otherwise make payment arrangements satisfactory to the commissioner of taxation and finance, or has failed to comply with the terms of such payment arrangements more than once within a twelve month period, the commissioner or his or her agent shall suspend the license of such person to operate a motor vehicle. In the event such person is unlicensed, such person's privilege of obtaining a license shall be suspended. Such suspension shall take effect no later than fifteen days from the date of the notice thereof provided to the person whose license or privilege of obtaining a license is to be suspended, and shall remain in effect until such time as the commissioner is advised that the person has satisfied his or her past-due tax liabilities, or has otherwise made payment arrangements satisfactory to the commissioner of taxation and finance.

(3) From the time the commissioner is notified by the department of taxation and finance under this section, the commissioner shall be relieved from all liability to such person which may otherwise arise under this section, and such person shall have no right to commence a court action or proceeding or to any other legal recourse against the

commissioner to recover such driving privileges as authorized by this section. In addition, notwithstanding any other provision of law, such person shall have no right to a hearing or appeal pursuant to this chapter with respect to a suspension of driving privileges as authorized by this section.

(4) Notwithstanding any provision of law to the contrary, the department shall furnish the department of taxation and finance with the information necessary for the proper identification of an individual referred to the department for the purpose of driver's license suspension pursuant to this section and section one hundred seventy-one-v of the tax law. This shall include the individual's name, social security number and any other information the commissioner of motor vehicles deems necessary.

(5) Any person whose driver's license is suspended pursuant to paragraph two of this subdivision may apply for the issuance of a restricted use license as provided in section five hundred thirty of this title.

4-g. Suspension of registration for unlawful solicitation of ground transportation services at an airport. Upon the receipt of a notification from a court or an administrative tribunal that an owner of a motor vehicle was convicted of a second conviction of unlawful solicitation of ground transportation services at an airport in violation of subdivision one of section twelve hundred twenty-b of this chapter both of which were committed within a period of eighteen months, the commissioner or his agent shall suspend the registration of the vehicle involved in the violation for a period of ninety days; upon the receipt of such notification of a third or subsequent conviction for a violation of such subdivision all of which were committed within a period of eighteen months, the commissioner or his agent shall suspend such registration for a period of one hundred eighty days. Such suspension shall take effect no less than thirty days from the date on which notice thereof is sent by the commissioner to the person whose registration or privilege is suspended. The commissioner shall have the authority to deny a registration or renewal application to any other person for the same vehicle, where it has been determined that such registrant's intent has been to evade the purposes of this subdivision

and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision.

4-h. Suspension of registration for covering license plates with a license plate cover or material appearing to be a number plate or obscuring license plates with any material or substance. (a) Upon receipt of a notification from a court or an administrative tribunal that an owner of a motor vehicle has been convicted three or more times within a period of five years of a violation of subparagraph (ii), (ii-a) or (iii) of paragraph (b) of subdivision one of section four hundred two of this chapter not arising out of the same incident, the commissioner or the commissioner's agent may suspend the registration of the motor vehicle involved in such violation for a period of ninety days. The commissioner may, in the commissioner's discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this paragraph and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this paragraph. Such denial shall remain in effect only as long as the suspension entered pursuant to this paragraph remains in effect.

(b) Upon receipt of notification from a court or an administrative tribunal that an owner of a motor vehicle has failed to comply with paragraph (b) or (c) of subdivision eight of section four hundred two of this chapter, the commissioner or the commissioner's agent may suspend the registration of the motor vehicle involved in such violation and such suspension shall remain in effect until such time as the commissioner is advised that such owner has complied with such paragraphs, as applicable. The commissioner may, in the commissioner's discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this paragraph and where the

commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this paragraph. Such denial shall remain in effect only as long as the suspension entered pursuant to this paragraph remains in effect.

* 4-i. Suspension of registration for circumventing or tampering with an intelligent speed assistance device or failing to install such device. (a) Upon receipt of notification from an administering agency in the city of New York that an owner of a motor vehicle has been convicted of a subsequent violation of paragraph a of subdivision nine of section sixteen hundred forty-two-b of this chapter, the commissioner or the commissioner's agent shall suspend the registration of the motor vehicle involved in such violation for a period of twelve months. Such suspension shall take effect no less than thirty days from the date on which notice thereof is sent by the commissioner to the person whose registration or privilege is suspended.

(b) Upon receipt of certification from an administering agency in the city of New York that an owner of a motor vehicle has failed to install and provide proof of installation of an intelligent speed assistance device within forty-five days of the date by which such installation and proof are required as provided in paragraph b of subdivision nine of section sixteen hundred forty-two-b of this chapter, the commissioner or the commissioner's agent shall suspend the registration of each motor vehicle involved in such violation. Such suspension shall take effect no less than thirty days from the date on which notice thereof is sent by the commissioner to the person whose registration or privilege is suspended and shall remain in effect for a particular motor vehicle until the commissioner is notified by the administering agency as required herein that the owner has installed an intelligent speed assistance device on such particular motor vehicle and provided proof of such installation to such administering agency. Upon the compliance of such owner with an order to install an intelligent speed assistance device and to provide proof of compliance to the administering agency as required pursuant to paragraph (b) of subdivision nine of section sixteen hundred forty-two-b of this chapter, the administering agency shall forthwith certify that fact to the commissioner, in such manner and form as the commissioner may prescribe.

(c) For the purposes of this subdivision, the term "administering

agency" shall have the same meaning as such term is defined in paragraph a of subdivision one of section sixteen hundred forty-two-b of this chapter.

* NB Effective May 26, 2027
* NB Repealed July 1, 2032

5. Restoration. A license or registration may be restored by direction of the commissioner but not otherwise. Reversal on appeal, of any conviction because of which any license or registration has been revoked or suspended, shall entitle the holder to restoration thereof forthwith. The privileges of a non-resident may be restored by direction of the commissioner in his discretion but not otherwise.

6. Restrictions. a. Where revocation is mandatory hereunder, no new license shall be issued for at least six months or, in certain cases a longer period as specified in this chapter, nor thereafter, except in the discretion of the commissioner of motor vehicles.

b. Except as otherwise provided in paragraph c of this subdivision, where revocation is mandatory pursuant to subparagraph (iii) of paragraph a of subdivision two of this section, no new commercial driver's license shall be issued for at least one year nor thereafter except in the discretion of the commissioner, except that if such person has previously been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this chapter; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this article, then such commercial driver's license revocation shall be permanent.

c. Where revocation is mandatory pursuant to subdivision one of section five hundred ten-a of this chapter or subparagraph (iii) of paragraph a of subdivision two of this section and the violation of subdivision two of section six hundred of this chapter was committed

while operating a commercial motor vehicle transporting hazardous materials, no new commercial driver's license shall be issued for at least three years nor thereafter except in the discretion of the commissioner, except that if such person has previously been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this chapter; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this article, then such commercial driver's license revocation shall be permanent.

d. The permanent commercial driver's license revocation required by paragraphs b and c of this subdivision may be waived by the commissioner after a period of ten years has expired from such sentence provided:

(i) that during such ten year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter and has not been convicted of any one of the following offenses: any violation of section eleven hundred ninety-two of this chapter; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this article;

(ii) if any of the grounds upon which the permanent commercial driver's license revocation is based involved a finding of refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of this chapter or a conviction of a violation of any subdivision of section eleven hundred ninety-two of this chapter, that such person provides acceptable documentation to the commissioner that such person has voluntarily enrolled in and successfully completed an appropriate rehabilitation program; and

(iii) after such documentation, if required, is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized.

e. Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances.

f. Where revocation is mandatory hereunder, based upon a conviction had outside this state, no new license shall be issued until after sixty days from the date of such revocation, nor thereafter, except in the discretion of the commissioner.

g. Except as provided in paragraph k of this subdivision, where revocation is permissive, no new license or certificate shall be issued by such commissioner to any person until after thirty days from the date of such revocation, nor thereafter, except in the discretion of the commissioner after an investigation or upon a hearing, provided, however, that where the revocation is based upon a failure in a reexamination pursuant to section five hundred six of this chapter, a learner's permit may be issued immediately and provided further, that where revocation is based upon a conviction of a felony, other than a felony relating to the operation of a motor vehicle or motorcycle, a license shall be issued immediately, if the applicant is otherwise qualified and if the application for such license is accompanied by consent in writing issued by the parole or probation authority having jurisdiction over such applicant.

h. The provisions of this subdivision shall not apply to revocations issued pursuant to sections eleven hundred ninety-three and eleven hundred ninety-four of this chapter.

k. Where revocation is permissive hereunder, based upon a finding of a violation of section three hundred ninety-two or section three hundred ninety-two-a of this chapter, no new license or certificate shall be issued until after one year from the date of such revocation, nor thereafter, except in the discretion of the commissioner.

l. Where revocation is mandatory pursuant to subparagraph (x) of paragraph a of subdivision two of this section, no new license shall be

issued for at least seventy-five days, nor thereafter except in the discretion of the commissioner.

m. Where revocation is mandatory pursuant to subparagraph (xi) of paragraph a of subdivision two of this section, no new license shall be issued for at least one hundred twenty days, nor thereafter except in the discretion of the commissioner.

n. Notwithstanding the provisions of paragraph a of this subdivision, subdivision two of section five hundred ten-b of this article or paragraph (b) of subdivision one of section five hundred ten-c of this article, where revocation is mandatory pursuant to subparagraph (xii) or subparagraph (xiii) of paragraph a of subdivision two of this section, no new license shall be issued for at least one year, nor thereafter except in the discretion of the commissioner.

o. Notwithstanding the provisions of paragraph a of this subdivision, where revocation is mandatory pursuant to subparagraph (iii) of paragraph a of subdivision two of this section involving a violation of section three hundred ninety-two of this chapter in relation to an application for the commercial driver's license or the commercial learner's permit being revoked, no new commercial driver's license or commercial learner's permit shall be issued for at least one year, nor thereafter except in the discretion of the commissioner.

7. Miscellaneous provisions. Except as expressly provided, a court conviction shall not be necessary to sustain a revocation or suspension. Revocation or suspension hereunder shall be deemed an administrative act reviewable by the supreme court as such. Notice of revocation or suspension, as well as any required notice of hearing, where the holder is not present, may be given by mailing the same in writing to him or her at the address contained in his or her license, certificate of registration or at the current address provided by the United States postal service, as the case may be. Proof of such mailing by certified mail to the holder shall be presumptive evidence of the holder's receipt and actual knowledge of such notice. Attendance of witnesses may be compelled by subpoena. Failure of the holder or any other person

possessing the license card or number plates, to deliver the same to the suspending or revoking officer is a misdemeanor. Suspending or revoking officers shall place such license cards and number plates in the custody of the commissioner except where the commissioner shall otherwise direct. If any person shall fail to deliver a license card or number plates as provided herein, any police officer, bridge and tunnel officer of the Triborough bridge and tunnel authority, or agent of the commissioner having knowledge of such facts shall have the power to secure possession thereof and return the same to the commissioner, and the commissioner may forthwith direct any police officer, bridge and tunnel officer of the Triborough bridge and tunnel authority, acting pursuant to his or her special duties, or agent of the commissioner to secure possession thereof and to return the same to the commissioner. Failure of the holder or of any person possessing the license card or number plates to deliver to any police officer, bridge and tunnel officer of the Triborough bridge and tunnel authority, or agent of the commissioner who requests the same pursuant to this subdivision shall be a misdemeanor. Notice of revocation or suspension of any license or registration shall be transmitted forthwith by the commissioner to the chief of police of the city or prosecuting officer of the locality in which the person whose license or registration so revoked or suspended resides. In case any license or registration shall expire before the end of any period for which it has been revoked or suspended, and before it shall have been restored as provided in this chapter, then and in that event any renewal thereof may be withheld until the end of such period of suspension or until restoration, as the case may be.

The revocation of a learner's permit shall automatically cancel the application for a license of the holder of such permit.

No suspension or revocation of a license or registration shall be made because of a judgment of conviction if the suspending or revoking officer is satisfied that the magistrate who pronounced the judgment failed to comply with subdivision one of section eighteen hundred seven of this chapter. In case a suspension or revocation has been made and the commissioner is satisfied that there was such failure, the commissioner shall restore the license or registration or both as the

case may be.

The commissioner shall provide written notice, in a conspicuous, bold type, to all persons having four license suspensions or revocations, where a fifth license suspension or revocation could result in a charge of aggravated unlicensed operation in the first degree pursuant to subparagraph (v) of paragraph (a) of subdivision three of section five hundred eleven of this article, that a fifth such suspension or revocation would subject any person charged under such subparagraph (v) to a class E felony with a definite sentence which may not exceed two years.

8. Cancellation. Upon receipt of a license which has been surrendered to the licensing authority of any other jurisdiction as a prerequisite to the issuance of a license by such other jurisdiction in accordance with the provisions of the Driver License Compact or any other laws of such jurisdiction, the commissioner shall cancel such license. Provided, however, that such license shall not be cancelled if the licensee is a resident of this state.

9. Railroad vehicle violations. Upon certification by the commissioner of transportation that there has been a violation of section seventy-six-b of the railroad law, the commissioner of motor vehicles may rescind, cancel or suspend the registration of any motor vehicle described in subdivision one of section seventy-six-b of the railroad law and may rescind, cancel, suspend or take possession of the current registration certificate and number plates of any such motor vehicle.

10. Where a youth is determined to be a youthful offender, following a conviction of a violation for which a license suspension or revocation is mandatory or where a youth receives a juvenile delinquency adjudication in conjunction with a violation of section 240.62 or subdivision five of section 240.60 of the penal law, the court shall impose such suspension or revocation as is otherwise required upon conviction and, further, shall notify the commissioner of said suspension or revocation and its finding that said violator is granted youthful offender status as is required pursuant to section five hundred

thirteen of this chapter or received a juvenile delinquency adjudication.

11. Notwithstanding any contrary provision of law, the division of criminal justice services is authorized to share with the commissioner such criminal history information in its possession as may be necessary to effect the provisions of this chapter.

§ 510-a. Suspension and revocation of commercial driver's licenses. 1. Revocation. A commercial driver's license shall be revoked by the commissioner whenever the holder is convicted within or outside of this state (a) of a felony involving the use of a motor vehicle except a felony as described in paragraph (b) of this subdivision; (b) of a felony involving manufacturing, distributing or dispensing a drug as defined in section one hundred fourteen-a of this chapter or possession of any such drug with intent to manufacture, distribute or dispense such drug in which a motor vehicle was used; (c) of a violation of subdivision one or two of section six hundred of this chapter; (d) of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle; (e) has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide; or (f) the commissioner determines that the holder has made a false statement regarding information: (i) required by the federal motor carrier safety improvement act of 1999 and Subpart J of Part 383 of title 49 of the code of federal regulations relating to a commercial driver's license document in an application for a commercial driver's license; (ii) required by the federal motor carrier safety improvement act of 1999 and Part 383.71 (a) and (g) of title 49 of the code of federal regulations relating to an initial commercial driver's license or existing commercial driver's license holder's self-certification in any of the self-certifications regarding the type of driving engaged or to be engaged in by the holder or regarding the non-applicability to the

holder of the physical qualification requirements of the federal motor carrier safety improvement act of 1999 and Part 391 of title 49 of the code of federal regulations relating to qualifications of drivers; or (iii) required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations relating to commercial driver's license requirements in any medical certificate.

2. Duration of revocation. (a) Except as otherwise provided in paragraph (b) of this subdivision, where revocation of a commercial driver's license is mandatory pursuant to paragraph (a), (c), (d), (e) or (f) of subdivision one of this section no new commercial driver's license shall be issued for at least one year nor thereafter except in the discretion of the commissioner, except that for revocations pursuant to paragraph (a), (c), (d) or (e) of subdivision one of this section, if such person has previously been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, or any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of this section, or has been convicted of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle, or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide, then such commercial driver's license revocation shall be permanent.

(b) Where revocation is mandatory pursuant to paragraph (a), (c), (d) or (e) of subdivision one of this section and the commercial motor vehicle was transporting hazardous materials, no new commercial driver's license shall be issued for at least three years nor thereafter except in the discretion of the commissioner, except that if such person has previously been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter or has a prior

conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, or any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of this section, or been convicted of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle, or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide, then such commercial driver's license revocation shall be permanent.

(c) The permanent commercial driver's license revocation required by paragraphs (a) and (b) of this subdivision may be waived by the commissioner after a period of ten years has expired from such sentence provided:

(i) that during such ten year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter and has not been convicted of any one of the following offenses: any violation of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, or any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of this section, or has been convicted of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle; or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide;

(ii) if any of the grounds upon which the permanent commercial driver's license revocation is based involved a finding of refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of this chapter or a conviction of a violation of any subdivision of section eleven hundred ninety-two of this chapter, that such person

provides acceptable documentation to the commissioner that such person has enrolled in and successfully completed an appropriate rehabilitation program; and

(iii) after such documentation, if required, is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized.

(d) Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances.

(e) Where revocation is mandatory pursuant to paragraph (b) of subdivision one of this section such revocation shall be permanent and may not be waived by the commissioner under any circumstances.

3. Suspension. (a) A commercial driver's license shall be suspended by the commissioner for a period of sixty days where the holder is convicted of two serious traffic violations as defined in subdivision four of this section committed within a three year period, in separate incidents whether such convictions occurred within or outside of this state.

(b) A commercial driver's license shall be suspended by the commissioner for a period of one hundred twenty days where the holder is convicted of three serious traffic violations as defined in subdivision four of this section committed within a three year period, in separate incidents whether such convictions occurred within or outside of this state.

(c) A commercial drivers license shall be suspended by the commissioner for a period of sixty days where the holder is convicted of a violation of subdivision (g) of section eleven hundred eighty of this chapter, and (i) the recorded or entered speed upon which the conviction was based exceeded the applicable speed limit by more than twenty miles per hour or (ii) the recorded or entered speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour and the vehicle was either (A) in violation of any rules or regulations involving an out-of-service defect relating to brake systems, steering components and/or coupling devices, or (B)

transporting flammable gas, radioactive materials or explosives.

(d) A commercial driver's license shall be suspended by the commissioner:

(i) for a period of one hundred eighty days where the holder was found to have operated a commercial motor vehicle designed or used to transport property as defined in subparagraphs (i) and (ii) of paragraph (a) of subdivision four of section five hundred one-a of this title, in violation of an out-of-service order as provided for in the rules and regulations of the department of transportation whether such violation was committed within this state or was the same or a similar violation involving an out-of-service order committed outside of this state;

(ii) for a period of two years if, during any ten-year period, the holder is found to have committed two such violations not arising from the same incident whether such violations were committed within or outside of the state;

(iii) for a period of three years if, during any ten-year period, the holder is convicted of three or more such violations not arising from the same incident whether such violations were committed within or outside of the state;

(iv) for a period of one hundred eighty days if the holder is found to have operated a commercial motor vehicle designed or used to transport passengers or property as defined in subparagraphs (iii) and (v) of paragraph (a) of subdivision four of section five hundred one-a of this title, in violation of an out-of-service order, as provided for in the rules and regulations of the department of transportation, while transporting hazardous materials or passengers whether such violation was committed within this state or was the same or a similar violation committed outside of this state;

(v) for a period of three years if, during any ten-year period, the holder is found to have committed two or more violations, not arising from the same incident, of operating a commercial motor vehicle designed or used to transport passengers or property as defined in subparagraphs (iii) and (v) of paragraph (a) of subdivision four of section five hundred one-a of this title, in violation of an out-of-service order, as provided for in the rules and regulations of the department of transportation, while transporting hazardous materials or passengers whether such violation was committed within this state or was the same

or a similar violation involving an out-of-service order committed outside of this state.

(e) A commercial driver's license shall be suspended by the commissioner:

(i) for a period of sixty days where the holder is convicted of a violation of section eleven hundred seventy-one or section eleven hundred seventy-six of this chapter whether such violation was committed within this state or was the same or a similar violation involving railroad grade crossings committed outside of this state.

(ii) for a period of one hundred twenty days where the holder is convicted of a second violation of section eleven hundred seventy-one or section eleven hundred seventy-six of this chapter whether such violations were committed within or outside of this state, both of which were committed within a three year period.

(iii) for a period of one year where the holder is convicted of a third violation of section eleven hundred seventy-one or section eleven hundred seventy-six of this chapter whether such violations were committed within or outside of this state, all of which were committed within a three year period.

4. Serious traffic violations. (a) A serious traffic violation shall mean operating a commercial motor vehicle in violation of any provision of this chapter or the laws or ordinances of any other state or locality outside of this state that restricts or prohibits the use of a hand-held mobile telephone or a portable electronic device while operating a commercial motor vehicle or in violation of any provision of this chapter or the laws of any other state, the District of Columbia or any Canadian province which (i) limits the speed of motor vehicles, provided the violation involved fifteen or more miles per hour over the established speed limit; (ii) is defined as reckless driving by state or local law or regulation; (iii) prohibits improper or erratic lane change; (iv) prohibits following too closely; (v) relates to motor vehicle traffic (other than parking, standing or stopping) and which arises in connection with a fatal accident; (vi) operating a commercial motor vehicle without first obtaining a commercial driver's license as required by section five hundred one of this title; (vii) operating a commercial motor vehicle without a commercial driver's license in the

driver's possession; or (viii) operating a commercial motor vehicle without the proper class of commercial driver's license and/or endorsement for the specific vehicle being operated or for the passengers or type of cargo being transported.

(b) Whether any specific violation which occurs without this state is a serious violation shall be dependent upon whether the state or province in which the violation occurs, reports such violation to the commissioner as, or deems it to be, a serious traffic violation under the provisions of the federal commercial motor vehicle safety act of nineteen hundred eighty-six, public law 99-570, title XII or the motor carrier safety improvement act of 1999, public law 106-159 and regulations promulgated thereunder.

4-a. Dismissal. The court shall dismiss any charge of operating a commercial motor vehicle without a commercial driver's license in the driver's possession if, between the date the driver is charged with such violation and the appearance date for such violation, the driver supplies the court with proof that he or she held a valid commercial driver's license on the date of such violation. Such driver must also supply such proof to the law enforcement authority that issued the citation, prior to such driver's appearance in court.

5. Limitation of effect of revocation or suspension. Any revocation or suspension of a commercial driver's license issued pursuant to this section shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of commercial motor vehicles, and the commissioner shall immediately issue a license, other than a commercial driver's license, to such person, provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard.

6. Application of section to persons not holding a commercial driver's license. Whenever a person who is not the holder of a commercial driver's license issued by the commissioner is convicted of a violation arising out of the operation of a commercial motor vehicle which would require the mandatory revocation or suspension of a commercial driver's

license pursuant to this section or clause (i) or (ii) of subparagraph five of paragraph (b) or clause b of subparagraph three of paragraph (e) of subdivision two of section eleven hundred ninety-three, or clause c of subparagraph one of paragraph (d) of subdivision two of section eleven hundred ninety-four of this chapter, the privilege of such person to operate a commercial motor vehicle and/or to obtain a commercial driver's license issued by the commissioner will be suspended or revoked for the same periods of time and subject to the same conditions provided in this section, or clause (i) or (ii) of subparagraph five of paragraph (b) or clause b of subparagraph three of paragraph (e) of subdivision two of section eleven hundred ninety-three, or clause c of subparagraph one of paragraph (d) of subdivision two of section eleven hundred ninety-four of this chapter, which would be applicable to the holder of a commercial driver's license.

7. Other revocation or suspension action not prohibited. The provisions of this section shall not be construed to prevent any person who has the authority to suspend or revoke a license to drive or privilege of operating pursuant to section five hundred ten of this chapter from exercising any such authority based upon a conviction for which suspension or revocation of a commercial driver's license by the commissioner is mandated.

8. Disqualifications based upon record review. (a) Where the commissioner conducts a state record review pursuant to section 384.206 of title 49 of the code of federal regulations and he or she determines that: (i) a person applying for a commercial driver's license was convicted outside of this state of an offense set forth in section 383.51 of title 49 of the code of federal regulations while holding a commercial driver's license issued by another state; and (ii) such other state failed to impose the commercial driver's license disqualification, suspension or revocation set forth in section 383.51 of title 49 of the code of federal regulations for such offense, then the commissioner shall immediately suspend such person's commercial driver's license or privilege of operating a commercial motor vehicle. Provided, however, that where such licenses would have been subject to revocation upon a conviction for such conduct had it occurred in this state, the

commissioner shall revoke such license. Such suspension or revocation shall be for the applicable period of time set forth for a conviction for such offense in such section 383.51 as it existed on the date of the violation.

(b) Any suspension or revocation of a commercial driver's license issued pursuant to paragraph (a) of this subdivision shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of commercial motor vehicles, and the commissioner shall immediately issue a license, other than a commercial driver's license, to such person provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard.

9. Application of disqualifications to holders of a commercial learner's permit. Notwithstanding any other provision of law, any provision of this chapter relating to the revocation, suspension, downgrading, disqualification or cancellation of a commercial driver's license shall apply in the same manner to a commercial learner's permit.

10. Consecutive disqualification periods. Notwithstanding any other provision of law, whenever a suspension, revocation or disqualification applicable to a commercial driver's license or commercial learner's permit is required by Part 383.51 of title 49 of the code of federal regulations and thereby imposed pursuant to this section or paragraph b or c of subdivision six of section five hundred ten or section eleven hundred ninety-three or eleven hundred ninety-four of this chapter, such suspension, revocation or disqualification shall take effect upon the expiration of the minimum period of a suspension, revocation or disqualification required by Part 383.51 of title 49 of the code of federal regulations and thereby imposed pursuant to this section or paragraph b or c of subdivision six of section five hundred ten or section eleven hundred ninety-three or eleven hundred ninety-four of this chapter which is currently in effect for such license or permit and arose from a separate incident. Provided, however, that the term or terms of any other suspension, revocation or disqualification applicable to a commercial driver's license or commercial learner's permit shall run concurrently if: (a) such suspension, revocation or disqualification

is not required by Part 383.51 of title 49 of the code of federal regulations; or (b) such suspension, revocation or disqualification arose from the same incident.

§ 510-aa. Downgrade of commercial driver's licenses. A commercial driver's license shall be downgraded to a non-commercial driver's license by the commissioner within sixty days of the holder's medical certification status becoming "not-certified" based upon the expiration of the holder's medical certification or medical variance documentation required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations, or upon the holder's failure to submit such medical certification or medical variance documentation at such intervals as required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations and in a manner prescribed by the commissioner. A commercial driver's license shall also be downgraded to a non-commercial driver's license by the commissioner within sixty days of the holder's medical certification status becoming "not-certified" based upon receipt of information from the issuing medical examiner or the federal motor carrier safety administration that a medical certification or medical variance was issued in error or rescinded. Such downgrade shall be terminated, and the commercial driver's license restored, upon: (1) the holder's submission of the required valid medical examiner's certificate or medical variance documentation; or (2) the holder's self-certification specifying the type of commercial motor vehicle operation he or she engages, or expects to engage in, and that the holder is therefore not subject to the physical qualification requirements of the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations. The commissioner shall, upon a holder's status becoming "not-certified", notify the holder of such commercial driver's license by first class mail to the address of such person on file with the department or at the current address provided by the United States postal service of his or her "not-certified" medical certification status and that his or her commercial driver's license will be downgraded to a non-commercial driver's license unless he or she submits a current medical certificate

and/or medical variance in accordance with Part 383.71(h) of title 49 of the code of federal regulations or changes his or her self-certification to driving only in excepted or intrastate commerce in accordance with Part 383.71(b)(ii)(B), (C) or (D) of title 49 of the code of federal regulations.

§ 510-b. Suspension and revocation for violations committed during probationary periods. 1. A license, other than a class DJ or class MJ license, shall be suspended, for a period of sixty days, (i) upon the first conviction of the licensee of a violation, committed during the probationary period provided for in subdivision four of section five hundred one of this title, of any provision of section eleven hundred twenty-nine of this chapter, section eleven hundred eighty of this chapter or any ordinance or regulation limiting the speed of motor vehicles and motorcycles, section eleven hundred eighty-two of this chapter, subdivision one of section eleven hundred ninety-two of this chapter or section twelve hundred twelve of this chapter; or (ii) upon the second conviction of the licensee of a violation, committed during the aforesaid probationary period, of any other provision of this chapter or of any other law, ordinance, order, rule or regulation relating to traffic.

2. A license, other than a class DJ or class MJ license, considered probationary pursuant to subdivision three of this section shall be revoked upon the conviction of the licensee of a violation or violations committed within six months following the restoration or issuance of such license, which conviction or convictions would result in the suspension of a probationary license pursuant to subdivision one of this section or subparagraph (xvi) of paragraph b of subdivision two of section five hundred ten of this article.

3. Any license, other than a class DJ or class MJ license, which is restored or issued to a person who has had his last valid license suspended or revoked pursuant to the provisions of this section or the provisions of subparagraph (xii) of paragraph a or subparagraph (xvi) of paragraph b of subdivision two of section five hundred ten of this

article shall be considered probationary until the expiration of six months following the date of restoration or issuance thereof.

4. The provisions of subdivisions one, five, six and seven of section five hundred ten of this chapter shall apply to any suspension or revocation under this section. However, the provisions of this section shall not operate to prevent a mandatory revocation or suspension for a greater period of time under subdivision two of section five hundred ten of this chapter or section eleven hundred ninety-three of this chapter; nor shall the provisions of this section prevent revocation or suspension under subdivisions two and three of section five hundred ten based upon two or more violations, including the same violation which was the basis for suspension or revocation under this section.

§ 510-c. Suspension and revocation of learner's permits and driver's licenses for violations committed by holders of class DJ or class MJ learner's permits or licenses. 1. (a) A learner's permit or a driver's license shall be suspended for a period of sixty days:

(i) upon a conviction or finding of a serious traffic violation as defined in subdivision two of this section, when such violation was committed while the holder had a class DJ or class MJ learner's permit or a class DJ or MJ license; or

(ii) upon the second conviction or finding of such permit or license holder of a violation of any other provision of this chapter or any other law, ordinance, order, rule or regulation relating to traffic, and when such violation was committed while such holder had a class DJ or class MJ learner's permit or a class DJ or MJ license.

(b) A learner's permit or a driver's license shall be revoked for a period of sixty days upon the conviction or finding of the permit or license holder of a violation or violations, committed within six months after the restoration of such permit or license suspended pursuant to paragraph (a) of this subdivision, which convictions or findings would result in the suspension of such permit or license pursuant to paragraph (a) of this subdivision.

2. For purposes of this section, the term "serious traffic violation"

shall mean operating a motor vehicle in violation of any of the following provisions of this chapter: articles twenty-five and twenty-six; subdivision one of section six hundred; section six hundred one; sections eleven hundred eleven, eleven hundred seventy, eleven hundred seventy-two and eleven hundred seventy-four; subdivisions (a), (b), (c), (d) and (f) of section eleven hundred eighty, provided that the violation involved ten or more miles per hour over the established limit; section eleven hundred eighty-two; subdivision three-a of section twelve hundred twenty-nine-c for violations involving use of safety belts or seats by a child under the age of sixteen; and section twelve hundred twelve of this chapter.

3. Any suspension or revocation required for a violation of section twelve hundred twenty-five-c or section twelve hundred twenty-five-d of this chapter shall be subject to the provisions of subdivisions two and six of section five hundred ten of this article.

§ 510-d. Suspension and revocation of class E driver's licenses. 1. A class E driver's license shall be suspended by the commissioner for a period of one year where the holder is convicted of a violation of section 230.20, 230.25, 230.30, 230.32, 230.34, 230.34-a or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime.

2. A class E driver's license may be revoked by the commissioner when the holder, who had his or her driver's license suspended under subdivision one of this section within the last ten years, is convicted of a second violation of section 230.20, 230.25, 230.30, 230.32, 230.34, 230.34-a or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime.

3. Any revocation or suspension of a class E driver's license issued pursuant to this article shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of a motor vehicle transporting passengers for hire, and the commissioner shall immediately issue a license, other than a class E driver's

license, to such person, provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard.

4. The provisions of this section shall not be construed to prevent any person who has the authority to suspend or revoke a license to drive or privilege of operating pursuant to section five hundred ten of this article from exercising any such authority.

§ 511. Operation while license or privilege is suspended or revoked; aggravated unlicensed operation. 1. Aggravated unlicensed operation of a motor vehicle in the third degree. (a) A person is guilty of the offense of aggravated unlicensed operation of a motor vehicle in the third degree when such person operates a motor vehicle upon a public highway while knowing or having reason to know that such person's license or privilege of operating such motor vehicle in this state or privilege of obtaining a license to operate such motor vehicle issued by the commissioner is suspended, revoked or otherwise withdrawn by the commissioner.

(b) Aggravated unlicensed operation of a motor vehicle in the third degree is a misdemeanor. When a person is convicted of this offense, the sentence of the court must be: (i) a fine of not less than two hundred dollars nor more than five hundred dollars; or (ii) a term of imprisonment of not more than thirty days; or (iii) both such fine and imprisonment.

(c) When a person is convicted of this offense with respect to the operation of a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds, the sentence of the court must be: (i) a fine of not less than five hundred dollars nor more than fifteen hundred dollars; or (ii) a term of imprisonment of not more than thirty days; or (iii) both such fine and imprisonment.

2. Aggravated unlicensed operation of a motor vehicle in the second degree. (a) A person is guilty of the offense of aggravated unlicensed operation of a motor vehicle in the second degree when such person commits the offense of aggravated unlicensed operation of a motor

vehicle in the third degree as defined in subdivision one of this section; and

(i) has previously been convicted of an offense that consists of or includes the elements comprising the offense committed within the immediately preceding eighteen months; or

(ii) the suspension or revocation is based upon a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of this chapter, a finding of driving after having consumed alcohol in violation of section eleven hundred ninety-two-a of this chapter or upon a conviction for a violation of any of the provisions of section eleven hundred ninety-two of this chapter; or

(iii) the suspension was a mandatory suspension pending prosecution of a charge of a violation of section eleven hundred ninety-two of this chapter ordered pursuant to paragraph (e) of subdivision two of section eleven hundred ninety-three of this chapter or other similar statute; or

(iv) such person has in effect three or more suspensions, imposed on at least three separate dates, for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter.

(b) Aggravated unlicensed operation of a motor vehicle in the second degree is a misdemeanor. When a person is convicted of this crime under subparagraph (i) of paragraph (a) of this subdivision, the sentence of the court must be: (i) a fine of not less than five hundred dollars; and (ii) a term of imprisonment not to exceed one hundred eighty days; or (iii) where appropriate a sentence of probation as provided in subdivision six of this section; or (iv) a term of imprisonment as a condition of a sentence of probation as provided in the penal law and consistent with this section. When a person is convicted of this crime under subparagraph (ii), (iii) or (iv) of paragraph (a) of this subdivision, the sentence of the court must be: (i) a fine of not less than five hundred dollars nor more than one thousand dollars; and (ii) a term of imprisonment of not less than seven days nor more than one hundred eighty days, or (iii) where appropriate a sentence of probation as provided in subdivision six of this section; or (iv) a term of imprisonment as a condition of a sentence of probation as provided in the penal law and consistent with this section.

3. Aggravated unlicensed operation of a motor vehicle in the first degree. (a) A person is guilty of the offense of aggravated unlicensed operation of a motor vehicle in the first degree when such person: (i) commits the offense of aggravated unlicensed operation of a motor vehicle in the second degree as provided in subparagraph (ii), (iii) or (iv) of paragraph (a) of subdivision two of this section and is operating a motor vehicle while under the influence of alcohol or a drug in violation of subdivision one, two, two-a, three, four, four-a or five of section eleven hundred ninety-two of this chapter; or

(ii) commits the offense of aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section; and is operating a motor vehicle while such person has in effect ten or more suspensions, imposed on at least ten separate dates for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six of this chapter or subdivision four-a of section five hundred ten of this article; or

(iii) commits the offense of aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section; and is operating a motor vehicle while under permanent revocation as set forth in subparagraph twelve of paragraph (b) of subdivision two of section eleven hundred ninety-three of this chapter; or

(iv) operates a motor vehicle upon a public highway while holding a conditional license issued pursuant to paragraph (a) of subdivision seven of section eleven hundred ninety-six of this chapter while under the influence of alcohol or a drug in violation of subdivision one, two, two-a, three, four, four-a or five of section eleven hundred ninety-two of this chapter; or

(v) commits the offense of aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section; and is operating a motor vehicle while such person has in effect five or more suspensions or revocations, imposed on at least five separate dates, pursuant to subparagraph (i), (iii), (iv), (v), (vi), (vii), (viii), (x), (xi), (xii), or (xiii) of paragraph a of subdivision two of section five hundred ten of this article, or subparagraph (i), (xiii), (xiv), (xv), (xvi), or (xvii) of paragraph b, or paragraph d of such subdivision, or paragraph a, b, d, e, or g relating to evading

lawful arrest or prosecution while operating a motor vehicle or motorcycle, or paragraph i of subdivision three of section five hundred ten of this article, or paragraph (c), (d), or (e) of subdivision one or subdivision three of section five hundred ten-a of this article, or section five hundred ten-b of this article, or section five hundred ten-c of this article, or subdivision two of section eleven hundred ninety-three of this chapter.

(b) Aggravated unlicensed operation of a motor vehicle in the first degree is a class E felony. When a person is convicted of this crime, the sentence of the court must be: (i) a fine in an amount not less than five hundred dollars nor more than five thousand dollars; and (ii) a term of imprisonment as provided in the penal law except that where a person is convicted of this crime under subparagraph (v) of paragraph (a) of this subdivision, any term of imprisonment imposed for a violation of this section shall be a definite sentence, which may not exceed two years, or (iii) where appropriate and a term of imprisonment is not required by the penal law, a sentence of probation as provided in subdivision six of this section, or (iv) a term of imprisonment as a condition of a sentence of probation as provided in the penal law.

4. Defense. In any prosecution under this section or section five hundred eleven-a of this chapter, it is a defense that the person operating the motor vehicle has at the time of the offense a license issued by a foreign country, state, territory or federal district, which license is valid for operation in this state in accordance with the provisions of section two hundred fifty of this chapter.

5. Limitation on pleas. Where an accusatory instrument charges a violation of this section, any plea of guilty entered in satisfaction of such charge must include at least a plea of guilty of one of the offenses defined by this section and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, that if the district attorney upon reviewing the available evidence determines that the charge of a violation of this section is not warranted, he may set forth upon the record the basis for such determination and consent to a disposition by plea of guilty to another charge in satisfaction of such charge, and the

court may accept such plea.

6. Sentence of probation. In any case where a sentence of probation is authorized by this section, the court may in its discretion impose such sentence, provided however, if the court is of the opinion that a program of alcohol or drug treatment may be effective in assisting in prevention of future offenses of a similar nature upon imposing such sentence, the court shall require as a condition of the sentence that the defendant participate in such a program.

7. Exceptions. When a person is convicted of a violation of subdivision one or two of this section, and the suspension was issued pursuant to (a) subdivision four-e of section five hundred ten of this article due to a support arrears, or (b) subdivision four-f of section five hundred ten of the article due to past-due tax liabilities, the mandatory penalties set forth in subdivision one or two of this section shall not be applicable if, on or before the return date or subsequent adjourned date, such person presents proof that such support arrears or past-due tax liabilities have been satisfied as shown by certified check, notice issued by the court ordering the suspension, or notice from a support collection unit or department of taxation and finance as applicable. The sentencing court shall take the satisfaction of arrears or the payment of the past-due tax liabilities into account when imposing a sentence for any such conviction. For licenses suspended for non-payment of past-due tax liabilities, the court shall also take into consideration proof, in the form of a notice from the department of taxation and finance, that such person has made payment arrangements that are satisfactory to the commissioner of taxation and finance.

§ 511-a. Facilitating aggravated unlicensed operation of a motor vehicle. 1. A person is guilty of the offense of facilitating aggravated unlicensed operation of a motor vehicle in the third degree when such person consents to the operation upon a public highway of a motor vehicle registered in such person's name knowing or having reason to know that the operator of such vehicle is a person whose license or privilege of operating such motor vehicle in this state or privilege of

obtaining a license issued to operate such motor vehicle by the commissioner is suspended, revoked or otherwise withdrawn by the commissioner and the vehicle is operated upon a public highway by such person.

2. Facilitating aggravated unlicensed operation of a motor vehicle in the third degree is a traffic infraction. When a person is convicted thereof the sentence of the court must be: (i) a fine of not less than two hundred dollars nor more than five hundred dollars or (ii) a term of imprisonment of not more than fifteen days, or (iii) both.

3. A person is guilty of facilitating aggravated unlicensed operation of a motor vehicle in the second degree when such person:

(a) commits the offense of facilitating aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section after having been convicted of such offense within the preceding eighteen months; or

(b) consents to the operation upon a public highway of a motor vehicle registered in such person's name knowing or having reason to know that the operator of such vehicle is a person who has in effect three or more suspensions, imposed on at least three separate dates, for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter; or

(c) commits the crime of facilitating aggravated unlicensed operation of a motor vehicle in the third degree after having been convicted of such an offense two or more times within the preceding five years.

For purposes of this subdivision, "motor vehicle" shall mean any vehicle for hire, including a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van, tow truck, bus or commercial motor vehicle as defined section five hundred nine-a of this chapter.

Facilitating aggravated unlicensed operation of a motor vehicle in the second degree is a misdemeanor. When a person is convicted of this crime pursuant to paragraphs (a) or (b) of this subdivision, the sentence of

the court must be: (i) a fine of not less than five hundred dollars, nor more than seven hundred fifty dollars; or (ii) a term of imprisonment not to exceed sixty days; or (iii) both a fine and imprisonment; or (iv) where appropriate, a sentence of probation; or (v) a term of imprisonment as a condition of a sentence of probation as provided in the penal law. When a person is convicted of this crime pursuant to paragraph (c) of this subdivision, the sentence of the court must be: (i) a fine of not less than five hundred, nor more than one thousand dollars; or (ii) a term of imprisonment not to exceed one hundred eighty days; or (iii) both a fine and imprisonment; or (iv) where appropriate, a sentence of probation; or (v) a term of imprisonment as a condition of probation as provided in the penal law.

4. A person is guilty of facilitating aggravated unlicensed operation of a motor vehicle in the first degree when such person consents to the operation upon a public highway of a motor vehicle registered in such person's name knowing or having reason to know that the operator of such vehicle is a person who has in effect ten or more suspensions, imposed on at least ten separate dates, for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter.

For purposes of this subdivision, "motor vehicle" shall mean any vehicle for hire, including a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van, tow truck, bus or commercial motor vehicle as defined in section five hundred nine-a of this chapter.

Facilitating aggravated unlicensed operation of a motor vehicle in the first degree is a class E felony. When a person is convicted of this crime, the sentence of the court must be: (i) a fine in an amount not less than one thousand dollars nor more than five thousand dollars; and (ii) a term of imprisonment as provided in the penal law; or (iii) where appropriate, a sentence of probation; or (iv) a term of imprisonment as a condition of a sentence of probation as provided in the penal law.

5. Upon a conviction of a violation of subdivision three or four of

this section the commissioner shall revoke the registration of the motor vehicle for which the defendant's consent is given and shall only be restored pursuant to the provisions of subdivision five of section five hundred ten of this article. If such defendant is a corporation, partnership, association or other group, none of its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the corporation shall be eligible to register the motor vehicle.

§ 511-b. Seizure and redemption of unlawfully operated vehicles. 1. Upon making an arrest or upon issuing a summons or an appearance ticket for the crime of aggravated unlicensed operation of a motor vehicle in the first or second degree committed in his presence, an officer shall remove or arrange for the removal of the vehicle to a garage, automobile pound, or other place of safety where it shall remain impounded, subject to the provisions of this section if: (a) the operator is the registered owner of the vehicle or the vehicle is not properly registered; or (b) proof of financial security is not produced; or (c) where a person other than the operator is the registered owner and, such person or another properly licensed and authorized to possess and operate the vehicle is not present. The vehicle shall be entered into the New York statewide police information network as an impounded vehicle and the impounding police department shall promptly notify the owner and the local authority that the vehicle has been impounded.

2. A motor vehicle so impounded shall be in the custody of the local authority and shall not be released unless:

(a) The person who redeems it has furnished satisfactory evidence of registration and financial security;

(b) Payment has been made for the reasonable costs of removal and storage of the motor vehicle. The registered owner of the vehicle shall be responsible for such payment provided, however, that if he was not the operator at the time of the offense he shall have a cause of action against such operator to recover such costs. Payment prior to release of the vehicle shall not be required in cases where the impounded vehicle was stolen or was rented or leased pursuant to a written agreement for a

period of thirty days or less, however the operator of such a vehicle shall be liable for the costs of removal and storage of the vehicle to any entity rendering such service.

(c) Where the motor vehicle was operated by a person who at the time of the offense was the owner thereof, (i) satisfactory evidence that the registered owner or other person seeking to redeem the vehicle has a license or privilege to operate a motor vehicle in this state, and (ii) (A) satisfactory evidence that the criminal action founded upon the charge of aggravated unlicensed operation of a motor vehicle has been terminated and that any fine imposed as a result of a conviction thereon has been paid, or (B) a certificate issued by the court in which the criminal action was commenced ordering release of the vehicle prior to the judgment or compliance therewith in the interest of justice, or (C) a certificate issued by the district attorney or other officer authorized to prosecute such charge waiving the requirement that the vehicle be held as security for appearance before and compliance with the judgment of the court.

3. When a vehicle seized and impounded pursuant to this section has been in the custody of the local authority for thirty days, such authority shall make inquiry in the manner prescribed by the commissioner as to the name and address of the owner and any lienholder and upon receipt of such information shall notify the owner and the lienholder, if any, at his last known address by certified mail, return receipt requested, that if the vehicle is not retrieved pursuant to subdivision two of this section within thirty days from the date the notice is given, it will be forfeited. If the vehicle was registered in New York the last known address shall be that address on file with the commissioner. If the vehicle was registered out-of-state or never registered, notification shall be made in the manner prescribed by the commissioner.

4. A motor vehicle that has been seized and not retrieved pursuant to the foregoing provisions of this section shall be forfeited to the local authority upon expiration of the period of the notice set forth in subdivision three of this section provided, however, in computing such period, the period of time during which a criminal prosecution is or was

pending against the owner for a violation of this section shall be excluded. A proceeding to decree such forfeiture and to recover towing and storage costs, if any, to the extent such costs exceed the fair market value of the vehicle may be brought by the local authority in the court in which the criminal action for aggravated unlicensed operation of a motor vehicle was commenced by petition for an order decreeing forfeiture of the motor vehicle accompanied by an affidavit attesting to facts showing that forfeiture is warranted. If the identity and address of the owner and/or lienholder is known to the local authority, ten days notice shall be given to such party, who shall have an opportunity to appear and be heard prior to entry of an order decreeing forfeiture. Where the court is satisfied that forfeiture of a motor vehicle is warranted in accordance with this section, it shall enter an order decreeing forfeiture of such vehicle. Provided, however, that the court at any time prior to entry of such an order may authorize release of the vehicle in accordance with subdivision two of this section upon a showing of good cause for failure to retrieve same prior to commencement of the proceeding to decree forfeiture, but if the court orders release of the motor vehicle as herein provided and the vehicle is not redeemed within ten days from the date of such order, the vehicle shall be deemed to have been abandoned and the court upon application of the local authority must enter an order decreeing its forfeiture.

5. A motor vehicle forfeited in accordance with the provisions of this section shall be and become the property of the local authority, subject however to any lien that was recorded prior to the seizure.

6. For the purposes of this section, the term "local authority" means the municipality in which the motor vehicle was seized; except that if the motor vehicle was seized on property of the New York state thruway authority or property under the jurisdiction of the office of parks, recreation and historic preservation, the department of transportation, or a public authority or commission, the term "local authority" means such authority, office, department, or commission. A county may provide by local law that the county may act as the agent for a local authority under this section.

7. When a vehicle has been seized and impounded pursuant to this section, the local authority or any person having custody of the vehicle shall make the vehicle available or grant access to it to any owner or any person designated or authorized by such owner for the purpose of (i) taking possession of any personal property found within the vehicle and (ii) obtaining proof of registration, financial security, title or documentation in support thereof.

§ 511-c. Seizure and forfeiture of vehicles used in the unlicensed operation of a motor vehicle under certain circumstances. 1. For purposes of this section:

(a) The term "owner" shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eighty-eight of this chapter.

(b) The term "security interest" shall mean a security interest as defined in subdivision (k) of section two thousand one hundred one of this chapter.

(c) The term "termination of the criminal proceeding" shall mean the earliest of (i) thirty-one days following the imposition of sentence; or (ii) the date of acquittal of a person arrested for an offense; or (iii) where leave to file new charges or to resubmit the case to a new grand jury is required and has not been granted, thirty-one days following the dismissal of the last accusatory instrument filed in the case, or, if applicable, upon expiration of the time granted by the court or permitted by statute for filing new charges or resubmitting the case to a new grand jury; or (iv) where leave to file new charges or to resubmit the case to a new grand jury is not required, thirty-one days following the dismissal of the last accusatory instrument filed in the case, or, if applicable, upon expiration of the time granted by the court or permitted by statute for filing new charges or resubmitting the case to a new grand jury; or (v) six months from the issuance of an "adjournment in contemplation of dismissal" order pursuant to section 170.55 of the criminal procedure law, where the case is not restored to the court's calendar within the applicable six-month period; or (vi) the date when, prior to the filing of an accusatory instrument against a person arrested for an offense, the prosecuting authority elects not to

prosecute such person.

2. Any motor vehicle which has been or is being used in violation of paragraph (a) of subdivision three of section five hundred eleven of this article may be seized by any peace officer, acting pursuant to his or her special duties, or police officer, and forfeited as hereinafter provided in this section.

3. A vehicle may be seized upon service of a notice of violation upon the owner or operator of a vehicle. The seized motor vehicle shall be delivered by the officer having made the seizure to the custody of the district attorney of the county wherein the seizure was made, except that in the cities of New York, Yonkers, Rochester and Buffalo the seized motor vehicle shall be delivered to the custody of the police department of such cities and such motor vehicle seized by a member or members of the state police shall be delivered to the custody of the superintendent of state police, together with a report of all the facts and circumstances of the seizure. Within one business day after the seizure, notice of such violation and a copy of the notice of violation shall be mailed to the owner of such vehicle at the address for such owner set forth in the records maintained by the department of motor vehicles or, for vehicles not registered in New York state, such equivalent record in such state of registration.

4. (a) The attorney general in seizures by members of the state police, or the district attorney of the county wherein the seizure is made, if elsewhere than in the cities of New York, Yonkers, Rochester or Buffalo, or where the seizure is made in such cities, the corporation counsel of the city shall inquire into the facts of the seizure so reported to him or her. If it appears that there is a basis for the commencement and prosecution of a forfeiture proceeding pursuant to this section, any such forfeiture proceeding shall be commenced in supreme court not later than twenty days after the date of receipt of a written demand by a person claiming ownership of the motor vehicle accompanied by the documentation required to be presented upon release of the vehicle pursuant to subparagraphs (i), (ii), and (iv) of paragraph (a) of subdivision five of this section.

(b) Where forfeiture proceedings are commenced and prosecuted pursuant to this section, the motor vehicle which is the subject of such proceedings shall remain in the custody of such district attorney, police department or superintendent of state police, as applicable, pending the final determination of such proceedings.

(c) To the extent applicable, the procedures of article thirteen-A of the civil practice law and rules shall govern proceedings and actions under this section.

5. A motor vehicle seized pursuant to this section shall be released when:

(a) (i) Such attorney general, district attorney or corporation counsel has made a determination not to institute forfeiture proceedings pursuant to this section or the time period within which a forfeiture proceeding could have been commenced pursuant to this section has elapsed and no such forfeiture proceeding was commenced or the criminal proceeding has been terminated in favor of the accused, as defined in subdivision three of section 160.50 of the criminal procedure law; and

(ii) The person seeking to claim the motor vehicle has furnished satisfactory evidence of registration and financial security and, if the person was the operator of the vehicle at the time of the violation of paragraph (a) of subdivision three of section five hundred eleven of this article, satisfactory evidence of payment of any fines or penalties imposed in connection therewith; and

(iii) Payment has been made for the reasonable costs of removal and storage of the motor vehicle. The owner of the motor vehicle shall be responsible for such payment provided, however, that if he or she was not the operator at the time of the offense, such person shall have a cause of action against such operator to recover such costs. Payment prior to release of the motor vehicle shall not be required in cases where the seized motor vehicle was stolen or rented or leased pursuant to a written agreement for a period of thirty days or less, however the operator of such a motor vehicle shall be liable for the costs of removal and storage of the motor vehicle to any entity rendering such service; and

(iv) If the motor vehicle is held as evidence, the person seeking to claim the motor vehicle has presented a release from the prosecuting

authority providing that the motor vehicle is not needed as evidence.

(b) (i) Pending completion of forfeiture proceedings which have been commenced, the person seeking to claim the motor vehicle has posted a bond in a form satisfactory to such attorney general, district attorney or corporation counsel in an amount that shall not exceed an amount sufficient to cover the maximum fines or civil penalties which may be imposed for the violation underlying the seizure and all reasonable costs for removal and storage of such vehicle; and

(ii) The persons seeking to claim the motor vehicle has furnished satisfactory evidence of registration and financial security.

6. Where a demand for the return of a motor vehicle is not made within ninety days after the termination of the criminal proceeding founded upon the charge of aggravated unlicensed operation of a motor vehicle in the first degree, such motor vehicle shall be deemed to be abandoned. Such vehicle shall be disposed of by the county, cities of New York, Yonkers, Rochester or Buffalo or the state, as applicable, in accordance with section twelve hundred twenty-four of this chapter or as otherwise provided by law.

7. Notice of the institution of the forfeiture proceeding shall be served:

(a) By personal service pursuant to the civil practice law and rules upon all owners of the seized motor vehicle listed in the records maintained by the department, or for vehicles not registered in New York state, in the records maintained by the state of registration; and

(b) By first class mail upon all individuals who have notified such attorney general, district attorney or corporation counsel that they are an owner of the vehicle and upon all persons holding a security interest in such motor vehicle which security interest has been filed with the department pursuant to the provisions of title ten of this chapter, at the address set forth in the records of such department, or for motor vehicles not registered in New York state, all persons holding a security interest in such motor vehicle which security interest has been filed with such state of registration, at the address provided by such state of registration.

8. Any owner who receives notice of the institution of a forfeiture action who claims an interest in the motor vehicle subject to forfeiture shall assert a claim for the recovery of the motor vehicle or satisfaction of the owner's interest in such motor vehicle by intervening in the forfeiture action in accordance with subdivision (a) of section one thousand twelve of the civil practice law and rules. Any person with a security interest in such vehicle who receives notice of the institution of the forfeiture action shall assert a claim for the satisfaction of such person's security interest in such vehicle by intervening in the forfeiture action in accordance with subdivision (a) of section one thousand twelve of the civil practice law and rules. If the action relates to a vehicle in which a person holding a security interest has intervened pursuant to this subdivision, the burden shall be upon the designated official to prove by clear and convincing evidence that such intervenor knew that such vehicle was or would be used for the commission of a violation of subparagraph (ii) of paragraph (a) of subdivision three of section five hundred eleven of the vehicle and traffic law and either (a) knowingly and unlawfully benefitted from such conduct or (b) voluntarily agreed to the use of the vehicle for the commission of such violation by consent freely given. For purposes of this subdivision, such intervenor knowingly and unlawfully benefited from the commission of such violation when he or she derived in exchange for permitting the use of such vehicle by a person or persons committing such specified violation a substantial benefit that would otherwise not have accrued as a result of the lawful use of such vehicle. "Benefit" means benefit as defined in subdivision seventeen of section 10.00 of the penal law.

9. No motor vehicle shall be forfeited under this section to the extent of the interest of a person who claims an interest in the motor vehicle, where such person pleads and proves that:

(a) The use of such motor vehicle for the conduct that was the basis for a seizure occurred without the knowledge of such person, or if such person had knowledge of such use, without the consent of such person, and that such person did not knowingly obtain such interest in the motor vehicle in order to avoid the forfeiture of such vehicle; or

(b) The conduct that was the basis for such seizure was committed by

any person other than such person claiming an interest in the motor vehicle, while such motor vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

10. The court in which a forfeiture action is pending may dismiss said action in the interests of justice upon its own motion or upon an application as provided for herein.

(a) At any time during the pendency of a forfeiture action, the designated official who instituted the action, or a defendant may apply for an order dismissing the complaint and terminating the forfeiture action in the interest of justice.

(b) Such application for the relief provided in paragraph (a) of this subdivision must be made in writing and upon notice to all parties. The court may, in its discretion, direct that notice be given to any other person having an interest in the property.

(c) An application for the relief provided for in paragraph (a) of this subdivision must be brought exclusively in the superior court in which the forfeiture action is pending.

(d) The court may grant the relief provided in paragraph (a) of this subdivision if it finds that such relief is warranted by the existence of some compelling factor, consideration or circumstance demonstrating that forfeiture of the property or any part thereof, would not serve the ends of justice. Among the factors, considerations and circumstances the court may consider, among others, are:

(i) the seriousness and circumstances of the crime to which the property is connected relative to the impact of forfeiture of property upon the person who committed the crime; or

(ii) the adverse impact of a forfeiture of property upon innocent persons.

(e) The court must issue a written decision stating the basis for an order issued pursuant to this subdivision.

11. The district attorney, police department or superintendent of state police having custody of the seized motor vehicle, after such judicial determination of forfeiture, shall, by a public notice of at least twenty days, sell such forfeited motor vehicle at public sale. The

net proceeds of any such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the county wherein the seizure was made, provided, however, that the net proceeds of the sale of a motor vehicle seized in the cities of New York, Yonkers, Rochester and Buffalo shall be paid into the respective general funds of such cities, and provided further that the net proceeds of the sale of a motor vehicle seized by the state police shall be paid into the state police seized assets account.

12. In any action commenced pursuant to this section, where the court awards a sum of money to one or more persons in satisfaction of such person's or persons' interest or interests in the forfeited motor vehicle, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited motor vehicle, after deduction of the lawful expenses incurred by the county, cities of New York, Yonkers, Rochester or Buffalo or the state, as applicable, and storage of the motor vehicle between the time of seizure and the date of sale.

13. At any time within two years after the seizure, any person claiming an interest in a motor vehicle which has been forfeited pursuant to this section who was not sent notice of the commencement of the forfeiture action pursuant to subdivision seven of this section, or who did not otherwise receive actual notice of the forfeiture action, may assert in an action commenced before the justice of the supreme court before whom the forfeiture action was held such claim as could have been asserted in the forfeiture action pursuant to this section. The court may grant the relief sought upon such terms and conditions as it deems reasonable and just if the person claiming an interest in the motor vehicle establishes that he or she was not sent notice of the commencement of the forfeiture action and was without actual knowledge of the forfeiture action, and establishes either of the affirmative defenses set forth in subdivision nine of this section.

14. No action under this section for wrongful seizure shall be instituted unless such action is commenced within two years after the time when the motor vehicle was seized.

§ 511-d. Aggravated failure to answer appearance tickets or pay fines imposed. 1. A person is guilty of the offense of aggravated failure to answer appearance tickets or pay fines imposed when such person has in effect twenty or more suspensions, imposed on at least twenty separate dates, for failure to answer, appear or pay a fine pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter.

2. A person may be prosecuted for a violation of this section in any court of competent jurisdiction in any county: (a) in which more than ten tickets which resulted in suspension for failures to answer, appear or pay fines were issued, or (b) in which the twentieth or any subsequent ticket which resulted in a suspension for failure to answer, appear or pay a fine was issued. The provisions of this subdivision shall not apply to any suspension which has been terminated prior to the defendant's being charged with a violation of this section.

3. Aggravated failure to answer appearance tickets or pay fines imposed is a misdemeanor. When a person is convicted of this crime, the sentence of the court must be: (i) a fine of not less than five hundred dollars; or (ii) a term of imprisonment of not more than one hundred eighty days; or (iii) both such fine and imprisonment.

§ 512. Operation while registration or privilege is suspended or revoked. Any person who operates any motor vehicle upon a public highway while the certificate of registration of such motor vehicle or privilege of operation of such motor vehicle in this state or privilege of obtaining a certificate of registration issued by the commissioner is suspended or revoked shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment for not exceeding thirty days or by both such fine and imprisonment for conviction of a first offense; by a fine of not less than one hundred dollars nor more than two hundred dollars or by imprisonment for not exceeding ninety

days or by both such fine and imprisonment for a conviction of a second offense committed within a period of eighteen months; by a fine of not less than two hundred dollars nor more than five hundred dollars or by imprisonment for not exceeding one hundred eighty days or by both such fine and imprisonment for a conviction of a third or subsequent offense committed within a period of eighteen months.

§ 513. Certificate of magistrate. (a) Upon the suspension or revocation of any license or certificate of registration for any reason specified in sections five hundred ten and eleven hundred ninety-three of this chapter as a ground for such suspension or revocation, the magistrate or other officer suspending or revoking the same shall, within ninety-six hours, transmit to the commissioner a certificate stating: (a) whether such license or certificate has been suspended or revoked and, if suspended, the period of such suspension; (b) the name and address of the person whose license or certificate has been suspended or revoked; (c) the nature of the offense committed, or other reason for the suspension or revocation; (d) the number and character of the violations of the provisions of this chapter, or of any lawful local ordinance, rule or regulation in relation to motor vehicle or motorcycle speed or traffic, of which such licensee has been convicted, so far as practicable. Such certificate shall be presumptive evidence of the facts recited therein. At such time, said magistrate or officer shall transmit such license, if surrendered at sentencing, to the commissioner.

(b) Where a person has been granted youthful offender status, the certificate required by subdivision (a) of this section shall specify (i) whether such license or certificate has been suspended or revoked, and if suspended, the period of such suspension; if revoked, the time period within which no new license may be issued; (ii) the name and address of the person whose license or certificate has been revoked; and (iii) such other information as the commissioner may require by regulation.

§ 514. Certifying convictions, forfeitures and nonappearances to the

commissioner and recording convictions. 1. (a) Upon a judgment of conviction of any person of (a) homicide or assault arising out of the operation of a motor vehicle, (b) criminally negligent homicide arising out of the operation of a motor vehicle, (c) a felony involving the use of a commercial motor vehicle, (d) a violation of any of the provisions of this chapter (except one relating to parking, stopping or standing) or (e) a violation of any law, ordinance, rule or regulation made by local authorities in relation to traffic (except one relating to parking, stopping or standing) or upon the forfeiture of bail given upon a charge of violating any such provision, law, ordinance, rule or regulation, the court or the clerk thereof shall within fifteen days certify the facts of the case to the commissioner in such form and in such manner as may be prescribed by the commissioner, who shall record the same in his office. Such certificate shall be presumptive evidence of the facts recited therein. If any such conviction shall be reversed upon appeal therefrom, or shall be vacated or set aside, the person whose conviction has been so reversed, vacated or set aside may serve on the commissioner a certified copy of the appropriate order and the commissioner shall thereupon record the same in connection with the record of such conviction.

(b) Notwithstanding the provisions of paragraph (a), upon a judgment of conviction for any offense for which a mandatory suspension or revocation is required to be imposed, or a permissive suspension or revocation is imposed by the court, the court or the clerk thereof shall within ninety-six hours of the imposition of sentence file the certificate required by paragraph (a) along with the license, when surrendered at sentencing.

(c) Notwithstanding the provisions of paragraphs (a) and (b), the commissioner may prescribe time limitations for the reporting of judgments of conviction and transmission of such license that are longer than those prescribed by this section for any courts to which this section is applicable.

(d) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this subdivision, upon a judgment of conviction for a violation of any provisions of this chapter or of any local law, rule, ordinance or regulation relating to traffic (except one related to parking, stopping or standing), the court or the clerk thereof shall, within ninety-six

hours of the imposition of the sentence, file the certificate required by paragraph (a) of this subdivision, if the person convicted: (i) is the holder of a commercial learner's permit or a commercial driver's license issued by another state; or (ii) does not hold a commercial learner's permit or a commercial driver's license, but has been issued a license by another state and is convicted of a violation that was committed in a commercial motor vehicle, as defined in subdivision four of section five hundred one-a of this title.

3. (a) Upon the failure of a person to appear or answer, within sixty days of the return date or any subsequent adjourned date, or the failure to pay a fine imposed by a court, pursuant to a summons charging him or her with a violation of any of the provisions of this chapter (except one for parking, stopping or standing), section five hundred two or five hundred twelve of the tax law, section fourteen-f, two hundred eleven or two hundred twelve of the transportation law or of any law, ordinance, rule or regulation made by a local authority, relating to traffic (except for parking, stopping or standing), the trial court or the clerk thereof shall within ten days certify that fact to the commissioner, in the manner and form prescribed by the commissioner, who shall record the same in his or her office. Thereafter and upon the appearance of any such person in response to such summons or the receipt of the fine by the court or such person's entry into an installment payment plan, the trial court or the clerk thereof shall forthwith certify that fact to the commissioner, in the manner and form prescribed by the commissioner.

(b) Upon the failure of a person to appear or answer, within sixty days of the return date or any subsequent adjourned date, or the failure to pay a fine imposed by a traffic and parking violations agency or a traffic violations agency pursuant to a summons charging him or her with a violation of:

(1) any of the provisions of this chapter except one for parking, stopping or standing and except those violations described in paragraphs (a), (b), (d), (e) and (f) of subdivision two and in paragraphs (a), (b), (d), (e), (f) and (g) of subdivision two-a and in paragraphs (a), (b), (d), (e), (f) and (g) of subdivision two-b of section three hundred seventy-one of the general municipal law;

(2) section five hundred two or subdivision (a) of section eighteen

hundred fifteen of the tax law;

(3) section fourteen-f (except paragraph (b) of subdivision four of section fourteen-f), two hundred eleven or two hundred twelve of the transportation law; or

(4) any lawful ordinance or regulation made by a local or public authority relating to traffic (except one for parking, stopping or standing);

the clerk thereof shall within ten days certify that fact to the commissioner, in the manner and form prescribed by the commissioner, who shall record the same in his or her office. Thereafter and upon the appearance of any such person in response to such summons or the receipt of the fine by the agency or such person's entry into an installment payment plan, the traffic and parking violations agency, the traffic violations agency or the clerk thereof shall forthwith certify that fact to the commissioner, in the manner and form prescribed by the commissioner.

4. (a) Upon the failure of the owner of a motor vehicle registered in this state or his representative to appear or answer, on the return date or any subsequent adjourned date, or in the case of an administrative tribunal fails to comply with the rules and regulations of said tribunal following entry of a final decision in response to three or more summonses or other process issued within an eighteen month period, charging that said motor vehicle was parked, stopped or standing in violation of the provisions of this chapter or any law, ordinance, rule or regulation made by a local authority, the trial court or administrative tribunal of appropriate jurisdiction may certify that fact to the commissioner in the manner and form prescribed by the commissioner, who may record the same in his office.

(b) Upon such certification, the trial court, the clerk thereof, or the administrative tribunal shall notify the registrant by certified or registered mail, return receipt requested, that the commissioner shall deny the registration or renewal application until proof from the court wherein the charges were pending is provided to the commissioner by such court, administrative tribunal, or registrant that such registrant has answered or appeared, or in the case of an administrative tribunal

provides proof that such registrant has complied with the rules and regulations of said tribunal following entry of a final decision. Thereafter and upon the appearance or answer of any such person in response to such summonses the trial court or clerk thereof shall forthwith certify that fact to the registrant, and to the commissioner in a manner and form prescribed by the commissioner. In the case of an administrative tribunal such certification shall be made to the registrant and to the commissioner upon compliance with the rules and regulations of such tribunal. Provided, however, that proof provided to the commissioner by a registrant in the form of a certification provided to such registrant pursuant to this paragraph shall have the same effect as proof provided to the commissioner by such court or administrative tribunal.

(c) At least sixty days prior to renewal date the commissioner shall notify the registrant that unless he complies with the provisions of this section as set forth above, his registration or renewal thereof, will be denied.

4-a. (a) Upon the failure of the owner of a motor vehicle registered in this state or his representative to appear or answer, on the return date or dates or any subsequent adjourned date or dates, or in the case of an administrative tribunal, fails to comply with the rules and regulations of said tribunal following entry of a final decision or decisions, in response to twenty or more summonses or other process issued within an eighteen month period, charging that said motor vehicle was parked, stopped or standing in violation of the provisions of this chapter or any law, ordinance, rule or regulation made by a local authority, the trial court or administrative tribunal of appropriate jurisdiction may certify that fact to the commissioner in the manner and form prescribed by the commissioner.

(b) Thereafter and upon the appearance or answer of any such person in response to such summonses the trial court or clerk thereof shall forthwith certify that fact to the registrant, and to the commissioner in a manner and form prescribed by the commissioner. In the case of an administrative tribunal, such certification shall be made to the registrant and to the commissioner upon compliance with the rules and regulations of such tribunal. Provided, however, that proof provided to

the commissioner by a registrant in the form of a certification provided to such registrant pursuant to this paragraph shall have the same effect as proof provided to the commissioner by such court or administrative tribunal.

§ 5. Upon the conviction of any person under eighteen years of age who resides within the household of his parent or guardian, the trial court or clerk shall forthwith transmit written notice of such conviction to the parent or guardian of such minor person; provided, however, that transmittal of such notice of conviction shall not be required in any case in which notice of arraignment of such person upon the charge or charges of which convicted is required by, and shall have been previously transmitted as provided in, subdivision two of section eighteen hundred seven of this chapter.

6. Notwithstanding any inconsistent provision of this section, the commissioner may exempt by regulation additional provisions of this chapter or of other laws, ordinances, rules or regulations from the requirements of subdivisions one and two.

7. Any person chargeable with the duty of reporting to the commissioner a conviction, bail forfeiture, the fact that a person failed to appear or answer pursuant to a summons, or the fact that a person has answered or appeared, or in the case of an administrative tribunal that a person has complied with the rules and regulations of said tribunal following entry of a final decision, who wilfully fails or neglects to do so, shall be punishable by a fine of not more than twenty-five dollars for each separate offense.

§ 514-a. Notification of convictions, suspensions, revocations, cancellations and disqualifications by commercial motor vehicle operators. 1. Each person who operates a commercial motor vehicle for a New York state employer who is convicted of violating within or outside of this state, in any type of motor vehicle, a state or local law relating to motor vehicle traffic control (other than a parking violation), shall notify his/her current employer of such conviction. Any person who holds a commercial driver's license issued by the

commissioner who does not operate a commercial motor vehicle for a New York state employer or who operates a commercial motor vehicle while self-employed who is convicted in any other state which has been decertified in accordance with Part 384.405 of title 49 of the code of federal regulations and notice of such decertification has been published in the federal register pursuant to Part 384.409 of title 49 of the code of federal regulations, the District of Columbia or a Canadian province of violating any law relating to motor vehicle traffic control (other than a parking violation) while operating a commercial motor vehicle shall notify the commissioner of such conviction. Such notification must be made within thirty days after the date that the person has been convicted except that if a person is a bus driver as defined in section five hundred nine-a of this chapter, such notification must be made within five days after the date the person has been convicted as required by section five hundred nine-i of this chapter. The above notification must be made in writing and contain the following information: (a) driver's full name; (b) driver's license number; (c) date of conviction; (d) the specific criminal or other offense(s), serious traffic violation(s) of state or local law relating to motor vehicle traffic control, for which the person was convicted and any suspension, revocation, cancellation of any driving privileges or disqualification from operating a commercial motor vehicle which resulted from such conviction(s); (e) indication whether the violation was in a commercial motor vehicle; (f) location of offense; (g) court or tribunal in which the conviction occurred; and (h) driver's signature.

2. Each person who operates a commercial motor vehicle for a New York state employer who has a commercial learner's permit or a commercial driver's license suspended, revoked, or canceled by the commissioner or by the appropriate authorities of any other state, District of Columbia or Canadian province, or who loses the right to operate a commercial motor vehicle in any state or jurisdiction for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his/her current employer of such suspension, revocation, cancellation, lost privilege, or disqualification.

§ 514-b. Certification of convictions, suspensions, revocations and disqualifications. Whenever the commissioner receives information relating to a conviction or notice of a suspension, revocation, cancellations and disqualifications of a license or disqualification from operating a commercial motor vehicle through direct notification by the appropriate officials of another state, District of Columbia or Canadian province or through an information system established pursuant to the commercial motor vehicle safety act of nineteen hundred eighty-six, public law 99-570, title XII and regulations promulgated thereunder or through an admission made by an applicant for a driver's license, such information shall be presumptive evidence of the facts contained therein, and the commissioner shall take action as may be required and may take action as may be permitted by this chapter based upon such conviction or notice.

§ 514-c. Notification of non-resident commercial operator convictions. Within ten days of the conviction of: (a) any holder of a commercial learner's permit or a commercial driver's license issued by another state for any violation of state or local law regulating traffic, other than a parking, stopping or standing violation, committed while operating a motor vehicle in this state; or

(b) any holder of a driver's license issued by another state for any violation of state or local law regulating traffic, other than a parking, stopping or standing violation, committed while operating a commercial motor vehicle in this state, the commissioner shall provide notice of such conviction to the state which issued such holder's commercial learner's permit, commercial driver's license or driver's license.

§ 515. Alteration of convictions endorsed on licenses. No person shall wilfully erase or otherwise make illegible, the record of a conviction which has been endorsed on a license pursuant to the provisions of section five hundred fourteen.

§ 516. Driver license compact. 1. The driver license compact is hereby enacted into law and entered into with all other jurisdictions joining therein in the form substantially as follows:

DRIVER LICENSE COMPACT

ARTICLE I

FINDINGS AND DECLARATION OF POLICY

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state and local laws and ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II

DEFINITIONS

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of Canada.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III
REPORTS OF CONVICTION

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV
EFFECT OF CONVICTION

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in

subdivision (a) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

ARTICLE V
APPLICATIONS FOR NEW LICENSES

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

ARTICLE VI
APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state

and a non-party state.

ARTICLE VII

COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII

ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof of any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(1) As used in the compact, the term "licensing authority" with

reference to this state shall mean the department of motor vehicles. Said department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of the compact.

(2) The compact administrator provided for in article seven of the compact shall not be entitled to any additional compensation on account of his service as such administrator, but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

(3) As used in the compact, with reference to this state, the term "executive head" shall mean the governor.

(4) The conduct to which effect shall be given pursuant to article four-a of the compact shall be conduct which, if it had occurred in this state, would have constituted an offense or violation within the meaning of subparagraphs (i) and (iii) of paragraph (a) of subdivision two, paragraph (f) of subdivision three of section five hundred ten and subparagraph seven of paragraph (b) of subdivision two of section eleven hundred ninety-three of the vehicle and traffic law.

(5) In any case where the application of subdivision five of section five hundred ten of the vehicle and traffic law would require or authorize a result different from that required by article five of the compact, said article five shall govern.

§ 516-a. Reciprocal driver license agreements with provinces of Canada. The commissioner may execute a reciprocal compact or agreement not inconsistent with the provisions of this chapter with the motor vehicle administrator or other authorized official of any province of Canada to effectuate the purposes set forth in subdivision (b) of article one of section five hundred sixteen of this article.

§ 516-b. Reciprocal agreements concerning reporting of traffic offenses and administrative action thereon. (a) The commissioner may execute a reciprocal compact or agreement not inconsistent with the provisions of this chapter with the motor vehicle administrator or other

authorized official of another state concerning the reporting of convictions for traffic offenses occurring in each state by a person licensed in, or a resident of, the other state to such licensing or residence state and the treating of any such reported conviction in the same manner as if the conviction occurred in the licensing or residence state for the purpose of administrative action. Any such compact or agreement shall specify the offenses subject to the compact or agreement, and shall include a determination of comparable offenses in each state if any such offenses are of a substantially similar nature but are not denominated or described in precisely the same words in each party state.

(b) The word "state" when used in this section shall mean any state, territory, a possession of the United States, District of Columbia or any province of Canada.

(c) Traffic offenses which may be subject to a reciprocal compact or agreement entered into pursuant to this section shall be limited to the follwing types of offenses in this state and equivalent offenses in each party state:

(1) Manslaughter, criminally negligent homicide and assault arising from the operation of a motor vehicle;

(2) Operating a motor vehicle while under the influence of alcohol or a drug;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Leaving the scene of a personal injury or fatal incident without reporting;

(5) Any speeding offense;

(6) Any offense consisting of disobeying any traffic control device;

(7) Any offense involving failure to yield the right-of-way;

(8) Any offense involving direction of traffic, overtaking or passing;

9. Any offense involving failure to use a safety belt or child re-straint device;

(10) Reckless driving; and

(11) Passing a stopped school bus.

(d) Nothing in this section shall be construed to prohibit the reporting or recording of convictions or youthful offender or other juvenile adjudications other than those included in a reciprocal compact

or agreement executed pursuant to this section when the laws of either state require or permit action to be taken or sanctions to be imposed on the basis of such convictions or youthful offender or other juvenile adjudications.

§ 517. Interstate compact guaranteeing appearance. a. The commissioner may execute a reciprocal compact or agreement not inconsistent with the provisions of this chapter with the motor vehicle administrator or other authorized official of another state concerning the appearance of a person licensed in one state to answer a summons or an appearance ticket for a moving traffic violation issued by the other state. Such compact shall provide that if a person licensed by either state is issued a summons or an appearance ticket by the other state for a moving traffic violation covered by the compact or agreement, he shall not be detained or required to furnish bail or collateral, and that if he fails to appear in response to such summons or appearance ticket, his license may be suspended by the state that issued the license until he submits to the jurisdiction of the court or administrative tribunal in which such summons or appearance ticket is returnable. Such compact shall also provide such terms and procedures as are necessary and proper to facilitate its administration.

b. Such interstate compacts may also provide that if a registration or renewal of a motor vehicle would be denied pursuant to either subdivision five-a of section four hundred one of this chapter, for failing to answer summonses or other processes issued for parking infractions, or subdivision four of section one hundred forty-five of the transportation law, with respect to the transportation of household goods, returnable in any court or an administrative tribunal of the department of transportation or for failing to comply with the rules and regulations of any administrative tribunal of appropriate jurisdiction following entry of a final determination with respect to such summons or process, the state issuing the registration or renewal shall likewise deny the registration or renewal, until such applicant submits to the jurisdiction of the court or administrative tribunal in which such summonses or other processes are returnable.

c. The word "state" when used in this section shall mean any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada.

§ 518. Reciprocal agreements concerning suspension or revocation of registration of a motor vehicle for violations of toll collection regulations. a. The commissioner may execute a reciprocal compact or agreement regarding toll collection violations with the motor vehicle administrator or other authorized official of another state not inconsistent with the provisions of this chapter. Such compact or agreement shall provide that if a registration of a motor vehicle would be suspended or revoked pursuant to paragraph d of subdivision three of section five hundred ten of this chapter, or pursuant to a comparable law or regulation of another state, because a registrant of such motor vehicle failed to pay tolls and related fees, or have such tolls or fees dismissed or transferred, then the state issuing the registration shall likewise suspend or revoke the registration or bar renewal of such registration, until such registrant has paid such tolls and fees or complied with the rules and regulations of the tolling authority that imposed such tolls and fees. Such compact or agreement shall also provide that no such action by a state against a motor vehicle registration shall be taken pursuant to such compact or agreement unless the tolling authority in the other state provides notice, due process, an opportunity to be heard and appeal protections for registrants of motor vehicles, and allows motor vehicle registrants in this state to present evidence by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violations occurred.

b. Such compact or agreement shall also provide such terms and procedures as are necessary and proper to facilitate its administration. Any such compact or agreement shall specify the violations subject to the compact or agreement, and shall include a determination of comparable violations in each state if any such violations are of a substantially similar nature but are not denominated or described in

precisely the same words in each party state.

c. The word "state" when used in this section shall mean any state, territory, a possession of the United States, the District of Columbia or any province of Canada.

ARTICLE 21

ALCOHOL AND DRUG REHABILITATION PROGRAM

Section 520. Statement of findings and declaration of purpose.
523. Reports.
523-a. Driver improvement clinic programs.
523-b. Experimental driver safety programs.

§ 520. Statement of findings and declaration of purpose. The ever-increasing number of accidents, personal injuries and deaths resulting from alcohol or drug-related traffic offenses is a matter of great concern to the legislature. The diminished perception of intoxicated and impaired operators of motor vehicles presents a constant and intolerable threat to the lives and well-being of the citizens of the state. Efforts aimed at alleviating this threat have proven inadequate. The public interest in the cause of highway safety will be well served by the implementation of a permanent program of rehabilitation for those operators convicted of alcohol or drug-related traffic offenses and certain operators who have been adjudicated youthful offenders for alcohol or drug-related traffic offenses. The commissioner of motor vehicles should have the authority to offer to such operators an opportunity for rehabilitation, thereby reducing the threat aimed at themselves and the people of the state.

§ 523. Reports. The commissioner shall report to the governor and to the legislature annually with respect to the status of the alcohol and drug rehabilitation program, including therein, among other things, the scope and results of procedures for screening and referral of program participants exhibiting an early stage, of alcoholism or chronic life

problem with alcohol, providing that such report shall not contain the name of or otherwise identify participants in such program.

§ 523-a. Driver improvement clinic programs. In addition to the driver rehabilitation program authorized by section eleven hundred ninety-six of this chapter, the commissioner may establish, by regulation, guidelines for alcohol and highway safety programs. The purpose of such programs should be to inform participants of the effects of alcohol on driving, to discuss problem drinking and its effects, to provide assistance to individuals with referral to alcoholism treatment agencies and to provide instruction with respect to proper driving techniques and driver attitude. The commissioner shall establish criteria for requiring attendance at such clinics, and may, pending attendance at such clinic, suspend the driver's license or privilege of any person who fails to attend such clinic as required by such regulations. Such criteria may provide for the required attendance at such clinic of any person who, as a result of the conviction for a moving traffic violation, is referred by the trial court for such attendance. The commissioner shall establish a fee to be paid by any person who attends any such program. Such fee shall be used to defray the ongoing expenses of the program. Where the commissioner has approved any driver improvement program conducted by local authorities, any such fee shall be paid to the agency conducting such program.

§ 523-b. Experimental driver safety programs. The commissioner may study the feasibility of programs to improve driver behavior, attitude, performance or skills in order to reduce motor vehicle accidents and traffic violations, and to promote highway safety. He shall have the authority to establish such programs on a limited, experimental basis in order to assist in such feasibility study provided any such program is funded by any source other than state funds, or if any such program is to be funded with state funds, then he may establish such program only with the approval of the director of the division of the budget.

ARTICLE 21-A

RESTRICTED USE LICENSES

Section 530. Restricted use licenses.

§ 530. Restricted use licenses. A person whose driving license or privilege of operating a motor vehicle in this state has been heretofore suspended or revoked pursuant to the provisions of section five hundred ten of this chapter or whose driver's license or privilege has been revoked pursuant to section three hundred eighteen of this chapter and for whom the holding of a valid license is a necessary incident to his employment, business, trade, occupation or profession, or to his travel to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training or enroute to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of his household, as evidenced by a written statement to that effect from a licensed medical practitioner may thereafter apply for and may be issued a restricted use license or if the holder of a license issued by another jurisdiction valid for operation in this state, a restricted use privilege of operating a motor vehicle in this state as provided herein.

(1) The issuance of a restricted use license or privilege shall be in the discretion of the commissioner of motor vehicles or his duly authorized agent, who may require the applicant to attend a driver rehabilitation program specified by the commissioner, and shall be issued only after it is established to the reasonable satisfaction of the issuing officer that a driving license or privilege is a necessary incident to the applicant's employment, business, trade, occupation or profession, or to his travel to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training or enroute to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of his household, as evidenced by a written statement to that effect from a licensed medical practitioner and that a denial of such license or privilege would deprive the person of his usual means of livelihood and thereby constitute an unwarranted and substantial financial hardship on the

applicant and his immediate family or would seriously impair such person's ability to meet the requirements of his education.

(2) Such license or privilege shall not be issued to a person who, within the four year period immediately preceding the date of application, has been convicted within or without the state of homicide or assault arising out of the operation of a motor vehicle, of criminally negligent homicide or criminal negligence in the operation of a motor vehicle resulting in death, or has been convicted within the state of a violation of subdivision two of section six hundred of this chapter or of reckless driving. Such license or privilege shall not be issued to a person whose license or privilege, at the time of application, is revoked pursuant to the provisions of subparagraph (x) or (xi) of paragraph a of subdivision two of section five hundred ten of this chapter. Such license or privilege shall not be issued to a person whose license or privilege is suspended or revoked because of a conviction of a violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this chapter or a similar offense in another jurisdiction, or whose license or privilege is revoked by the commissioner for refusal to submit to a chemical test pursuant to subdivision two of section eleven hundred ninety-four of this chapter. Such license or privilege shall not be issued to a person who within the five year period immediately preceding the date of application for such license or privilege has been convicted of a violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this chapter or a similar alcohol-related offense in another jurisdiction, or whose license or privilege has been revoked by the commissioner for refusal to submit to a chemical test pursuant to subdivision two of section eleven hundred ninety-four of this chapter, except that such a license or privilege may be issued to such a person if, after such conviction or revocation, such person successfully completed an alcohol and drug rehabilitation program established pursuant to article thirty-one of this chapter in conjunction with such conviction or revocation. Provided, however, that nothing herein shall be construed as prohibiting an operator from being issued a limited or conditional license or privilege pursuant to any alcohol rehabilitation program established pursuant to this chapter.

(3) Such license or privilege and renewal thereof shall be issued for

a period not exceeding the period during which such person's regular driver's license or privilege has been suspended or revoked, shall be marked and identified as a restricted use license or privilege and shall be valid only: (a) during the time the holder is actually engaged in pursuing or commuting to or from his business, trade, occupation or profession, (b) en route to and from a driver rehabilitation program or related activity specified by the commissioner at which his attendance is required, (c) to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training, (d) enroute to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of his household, as evidenced by a written statement to that effect from a licensed medical practitioner, or (e) enroute to and from a place, including a school, at which the child or children of the holder are cared for on a regular basis and which is necessary for the holder to maintain such holder's employment or enrollment at an accredited school, college or university or at a state approved institution of vocational or technical training and shall contain the terms and conditions under which it is issued and is valid. In the event the holder of a restricted use license or privilege is convicted of: any violation (other than parking, stopping or standing) or of operating a motor vehicle for other than his employment, business, trade, occupational or professional or other purposes for which the license or privilege was issued, or does not comply with other requirements established by the commissioner, such license or privilege may be revoked and the holder shall not be eligible to receive a license or privilege pursuant to this section for a period of five years from the date of such revocation.

(4) The fee for a restricted use license or privilege shall be seventy-five dollars to be paid upon the issuance thereof, and such fee shall not be refundable.

(4-a) Fees assessed for a restricted use license or privilege shall be paid to the commissioner for deposit in the general fund.

* (5) A restricted use license or privilege shall be valid for the operation of any motor vehicle, except a vehicle for hire as a taxicab, livery, coach, limousine, van or wheelchair accessible van or tow truck as defined in this chapter subject to the conditions set forth herein,

which the holder would otherwise be entitled to operate had his drivers license or privilege not been suspended or revoked. Notwithstanding anything to the contrary in a certificate of relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, a restricted use license shall not be valid for the operation of a commercial motor vehicle. A restricted use license shall not be valid for the operation of a vehicle for hire as a taxicab, livery, coach, limousine, van or wheelchair accessible van or tow truck where the holder thereof had his or her drivers license suspended or revoked and (i) such suspension or revocation is mandatory pursuant to the provisions of subdivision two or two-a of section five hundred ten of this title; or (ii) any such suspension is permissive for habitual or persistent violations of this chapter or any local law relating to traffic as set forth in paragraph d or i of subdivision three of section five hundred ten of this title; or (iii) any such suspension is permissive and has been imposed by a magistrate, justice or judge of any city, town or village, any supreme court justice, any county judge, or judge of a district court. Except for a commercial motor vehicle as defined in subdivision four of section five hundred one-a of this title, the restrictions on types of vehicles which may be operated with a restricted license contained in this subdivision shall not be applicable to a restricted license issued to a person whose license has been suspended pursuant to paragraph three of subdivision four-e of section five hundred ten of this title.

* NB Effective until August 31, 2027

* (5) A restricted use license or privilege shall be valid for the operation of any motor vehicle, except a commercial motor vehicle or a vehicle for hire as a taxicab, livery, coach, limousine, van or wheelchair accessible van or tow truck as defined in this chapter subject to the conditions set forth herein, which the holder would otherwise be entitled to operate had his drivers license or privilege not been suspended or revoked. A restricted use license shall not be valid for the operation of a vehicle for hire as a taxicab, livery, coach, limousine, van or wheelchair accessible van or tow truck where the holder thereof had his or her drivers license suspended or revoked and (i) such suspension or revocation is mandatory pursuant to the provisions of subdivision two or two-a of section five hundred ten of

this chapter or (ii) any such suspension is permissive for habitual or persistent violations of this chapter or any local law relating to traffic as set forth in paragraph (d) or (i) of subdivision three of section five hundred ten of this chapter; or (iii) any such suspension is permissive and has been imposed by a magistrate, justice or judge of any city, town or village, any supreme court justice, any county judge, or judge of a district court.

* NB Effective August 31, 2027

* (5-a) Issuance of a restricted license shall not be denied to any person whose license is suspended pursuant to paragraph three of subdivision four-e of section five hundred ten of this chapter for any reason other than such person's failure to otherwise have a valid or renewable driver's license. The issuance of a restricted license issued as a result of a suspension under subdivision four-e of section five hundred ten of this chapter shall not in any way affect a person's possible eligibility for a restricted license at some future time.

* NB Repealed August 31, 2027

(5-b) Issuance of a restricted license shall not be denied to any person whose license is suspended pursuant to subdivision four-f of section five hundred ten of this title for any reason other than such person's failure to otherwise have a valid or renewable driver's license. The restrictions on the types of vehicles which may be operated with a restricted license contained in such subdivision five of this section shall not be applicable to a restricted license issued to a person pursuant to subdivision four-f of section five hundred ten of this title. The issuance of a restricted license issued as a result of a suspension under subdivision four-f of section five hundred ten of this title shall not in any way affect a person's eligibility for a restricted license at some future time.

(6) It shall be a traffic infraction for the holder of a restricted use license or privilege to operate a motor vehicle upon a public highway for any use other than those authorized pursuant to subdivision three of this section.

(7) Subject to the limitation prescribed in subdivision four of this section, a restricted use license or privilege shall be valid until the expiration date of any unrestricted driver's license which was held by such person prior to the suspension or revocation upon which the

restricted use license or privilege has been issued. Upon such expiration, the restricted use license or privilege may be renewed for the same fee for which such unrestricted license could have been renewed and such renewal fee shall be applied to the renewal, if issued by this state, or reissuance of his unrestricted driver's license when such license is eligible for issuance.

(8) The commissioner shall establish a schedule of fees to be paid by or on behalf of each person who is required to attend a driver rehabilitation program as a condition to the issuance of a restricted use license or privilege, and he may, from time to time, modify the same. Such fees shall defray the ongoing expenses of the program. In no event shall such fee be refundable. A driver improvement program established pursuant to section five hundred twenty-three-a of this chapter may be designated by the commissioner as a driver rehabilitation program under this section if the curriculum and other requirements both for the purposes of this section and section five hundred twenty-three-a of this chapter are satisfied by such program. Where the commissioner has approved any driver improvement program conducted by local authorities as a driver rehabilitation program under this section, any fee required for attendance at such program shall be paid to the agency conducting such program.

(9) In order to effectuate the purpose of this section the commissioner shall establish and publish rules and regulations as may be necessary for the administration hereof.

ARTICLE 21-B
MEDICAL ADVISORY BOARD

Section 540. Creation.
541. Purpose.
542. Composition of the board.
543. Appointment; compensation; meetings.
544. Responsibilities.
545. Immunity.

§ 540. Creation. There is hereby established within the department a

medical advisory board.

§ 541. Purpose. The medical advisory board shall advise the commissioner on medical criteria and vision standards for the licensing of drivers.

§ 542. Composition of the board. The board shall consist of not less than fourteen members, ten of whom shall be physicians representing the specialties of neurology, cardiovascular medicine, internal medicine, family practice, opthalmology, psychiatry, orthopedics, emergency medicine, rehabilitative medicine and gerontology. At least two members of the board shall be lay persons. One member shall be an optometrist and one member shall be a psychologist who respectively are licensed to practice optometry or psychology in the state.

§ 543. Appointment; compensation; meetings. 1. The members of the board shall be appointed by the commissioner. Before such appointments are made, the commissioner shall consult with the medical society of the state of New York in order to obtain their advice regarding the physician appointments. The commissioner shall consult with the optometric council of New York state and the New York state optometric association regarding the appointment of an optometrist, and the New York state psychological association regarding the appointment of a psychologist. The board members shall be appointed to serve three year terms except that four such members initially appointed shall serve one year terms, five shall serve two year terms and five shall serve three year terms. The commissioner shall designate the chairman of the board. Members representing other specialties and interests may be appointed by the commissioner upon recommendation of the board.

2. Board members shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

3. The board shall meet at such times as the commissioner shall direct.

§ 544. Responsibilities. As requested by the commissioner, the board shall recommend medical criteria and vision standards relating to driver licensing and the safe operation of a motor vehicle, and report to the commissioner on such other aspects of medical fitness, driver licensing, and driver health, and safety as the commissioner may request, including collection and analysis of data and research relating to medical aspects of driving and driver licensing.

§ 545. Immunity. The medical advisory board and its members shall not be held liable in any action or proceeding on account of any recommendation or report submitted to the commissioner pursuant to this article.

ARTICLE 21-C

CERTIFICATES FOR ESCORT VEHICLES

Section 546. Escort certificates.
547. Period of validity of escort certificates.
548. Fees.
549. Cancellation of an escort certificate.
550. Recertification.
551. Violations.

§ 546. Escort certificates. Application for an escort certificate shall be made in the manner and form prescribed by the commissioner. The fee prescribed by law shall be submitted with such application. The applicant shall be a minimum of twenty-one years of age, possess a valid driver's license, furnish such proof of fitness and identity as required by the commissioner and submit to and pass a test administered by the commissioner.

§ 547. Period of validity of escort certificates. An escort certificate shall be valid: (a) for a New York state licensee from its date of issuance until the expiration of such person's driver's license, and (b) for non-residents, a four year period from its date of issuance.

§ 548. Fees. The fee for an application of an escort certificate shall be forty dollars which shall be deposited in the general fund.

§ 549. Cancellation of an escort certificate. An escort certificate shall be cancelled by the commissioner if such person's underlying driver's license has expired, is revoked or suspended or upon notification by the commissioner of transportation or the New York state thruway authority that the person has violated any rule or regulation of the commissioner of transportation or the New York state thruway authority governing the operation, use and equipment of escort vehicles and the duties and responsibilities of the operator of an escort vehicle.

§ 550. Recertification. A person who has had his or her escort certificate cancelled shall not be eligible to reapply for an escort certificate for a minimum period of six months from the date of such cancellation.

§ 551. Violations. 1. No person shall operate an escort vehicle, as defined in section one hundred fourteen-c of this chapter, unless he or she is the holder of a valid driver's license and possesses a valid escort certificate issued pursuant to the provisions of this chapter. A violation of this subdivision shall be a traffic infraction and shall be punishable by a fine of not less than two hundred dollars nor more than five hundred dollars.

2. No person shall operate an escort vehicle, as defined in section

one hundred fourteen-c of this chapter, with an escort certificate which has been cancelled pursuant to the provisions of this chapter. A violation of this subdivision shall be a traffic infraction and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars.

3. No person shall operate an escort vehicle, as defined in section one hundred fourteen-c of this chapter, in violation of any rule or regulation of the commissioner of transportation regarding the operation, use or equipping of such vehicles. A violation of this subdivision shall be a traffic infraction and shall be punishable by a fine of not less than one hundred dollars nor more than three hundred dollars.

TITLE VI

ACCIDENTS AND ACCIDENT REPORTS

Article 22. Accidents and accident reports.

ARTICLE 22

ACCIDENTS AND ACCIDENT REPORTS

Section 600. Leaving scene of an incident without reporting.
601. Leaving scene of injury to certain animals without reporting.
602. Arrest for violations of sections six hundred and six hundred one.
603. Accidents; police authorities and coroners to report.
603-a. Accidents; police authorities to investigate.
603-b. Accidents; police to indicate serious physical injury and death on simplified traffic information or summons and compliant.
604. Reports; contents; preparation; distribution; filing.
605. Report required upon accident.
606. Processing of required reports.

§ 600. Leaving scene of an incident without reporting. 1. Property damage. a. Any person operating a motor vehicle who, knowing or having cause to know that damage has been caused to the real property or to the personal property, not including animals, of another, due to an incident involving the motor vehicle operated by such person shall, before leaving the place where the damage occurred, stop, exhibit his or her license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, and give his or her name, residence, including street and number, insurance carrier and insurance identification information including but not limited to the number and effective dates of said individual's insurance policy, and license number to the party sustaining the damage, or in case the person sustaining the damage is not present at the place where the damage occurred then he or she shall report the same as soon as physically able to the nearest police station, or judicial officer. In addition to the foregoing, any such person shall also: (i) (A) produce the proof of insurance coverage required pursuant to article forty-four-B of this chapter if such person is a TNC driver operating a TNC vehicle while the incident occurred who was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip; and (B) disclose whether he or she, at the time such incident occurred, was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip, or (ii) (A) produce the proof of insurance coverage required pursuant to article forty of the general business law if such person is a shared vehicle owner or shared vehicle driver operating a shared vehicle during a peer-to-peer car sharing period while the incident occurred; and (B) disclose whether he or she, at the time such incident occurred, was operating a shared vehicle during a peer-to-peer car sharing period.

b. It shall be the duty of any member of a law enforcement agency who is at the scene of the accident to request the said operator or operators of the motor vehicles, when physically capable of doing so, to exchange the information required hereinabove and such member of a law enforcement agency shall assist such operator or operators in making such exchange of information in a reasonable and harmonious manner.

A violation of the provisions of paragraph a of this subdivision shall constitute a traffic infraction punishable by a fine of up to two hundred fifty dollars or a sentence of imprisonment for up to fifteen days or both such fine and imprisonment.

2. Personal injury. a. Any person operating a motor vehicle who, knowing or having cause to know that personal injury has been caused to another person, due to an incident involving the motor vehicle operated by such person shall, before leaving the place where the said personal injury occurred, stop, exhibit his or her license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, and give his or her name, residence, including street and street number, insurance carrier and insurance identification information including but not limited to the number and effective dates of said individual's insurance policy and license number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then, he or she shall report said incident as soon as physically able to the nearest police station or judicial officer. In addition to the foregoing, any such person shall also: (i) (A) produce the proof of insurance coverage required pursuant to article forty-four-B of this chapter if such person is a TNC driver operating a TNC vehicle at the time of the incident who was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip; and (B) disclose whether he or she, at the time such incident occurred, was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip, or (ii) (A) produce the proof of insurance coverage required pursuant to article forty of the general business law if such person is a shared vehicle owner or shared vehicle driver operating a shared vehicle during a peer-to-peer car sharing period while the incident occurred; and (B) disclose whether he or she, at the time such incident occurred, was operating a shared vehicle during a peer-to-peer car sharing period.

b. It shall be the duty of any member of a law enforcement agency who

is at the scene of the accident to request the said operator or operators of the motor vehicles, when physically capable of doing so, to exchange the information required hereinabove and such member of a law enforcement agency shall assist such operator or operators in making such exchange of information in a reasonable and harmonious manner.

c. A violation of the provisions of paragraph a of this subdivision resulting solely from the failure of an operator to exhibit his or her license and insurance identification card for the vehicle or exchange the information required in such paragraph shall constitute a class B misdemeanor punishable by a fine of not less than two hundred fifty nor more than five hundred dollars in addition to any other penalties provided by law. Any subsequent such violation shall constitute a class A misdemeanor punishable by a fine of not less than five hundred nor more than one thousand dollars in addition to any other penalties provided by law. Any violation of the provisions of paragraph a of this subdivision, other than for the mere failure of an operator to exhibit his or her license and insurance identification card for such vehicle or exchange the information required in such paragraph, shall constitute a class A misdemeanor, punishable by a fine of not less than seven hundred fifty dollars nor more than one thousand dollars in addition to any other penalties provided by law. Any such violation committed by a person after such person has previously been convicted of such a violation shall constitute a class E felony, punishable by a fine of not less than one thousand nor more than three thousand dollars in addition to any other penalties provided by law. Any violation of the provisions of paragraph a of this subdivision, other than for the mere failure of an operator to exhibit his or her license and insurance identification card for such vehicle or exchange the information required in such paragraph, where the personal injury involved (i) results in serious physical injury, as defined in section 10.00 of the penal law, shall constitute a class E felony, punishable by a fine of not less than one thousand nor more than five thousand dollars in addition to any other penalties provided by law, or (ii) results in death shall constitute a class D felony punishable by a fine of not less than two thousand nor more than five thousand dollars in addition to any other penalties provided by law.

3. For the purposes of this article, the terms "TNC", "TNC driver", "TNC vehicle", "TNC prearranged trip" and "digital network" shall have the same meanings as such terms are defined in article forty-four-B of this chapter and the terms "shared vehicle owner", "shared vehicle driver", "shared vehicle" and "peer-to-peer car sharing period" shall have the same meanings as such terms are defined in article forty of the general business law.

§ 601. Leaving scene of injury to certain animals without reporting. Any person operating a motor vehicle which shall strike and injure any horse, dog, cat or animal classified as cattle shall stop and endeavor to locate the owner or custodian of such animal or a police, peace or judicial officer of the vicinity, and take any other reasonable and appropriate action so that the animal may have necessary attention, and shall also promptly report the matter to such owner, custodian or officer (or if no one of such has been located, then to a police officer of some other nearby community), exhibiting his or her license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, giving his or her name and residence, including street and street number, insurance carrier and insurance identification information and license number. In addition to the foregoing, any such person shall also: (i) (A) produce the proof of insurance coverage required pursuant to article forty-four-B of this chapter if such person is a TNC driver operating a TNC vehicle at the time of the incident who was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip; and (B) disclose whether he or she, at the time such incident occurred, was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip, or (ii) (A) produce the proof of insurance coverage required pursuant to article forty of the general business law if such person is a shared vehicle owner or shared vehicle driver operating a shared vehicle during a peer-to-peer car sharing period while the incident occurred; and (B) disclose whether he or she, at the time such incident occurred, was operating a shared vehicle

during a peer-to-peer car sharing period. Violation of this section shall be punishable by a fine of not more than one hundred dollars for a first offense and by a fine of not less than fifty nor more than one hundred fifty dollars for a second offense and each subsequent offense; provided, however where the animal that has been struck and injured is a guide dog, hearing dog or service dog, as such terms are defined in section forty-seven-b of the civil rights law which is actually engaged in aiding or guiding a person with a disability, a violation of this section shall be punishable by a fine of not less than fifty nor more than one hundred fifty dollars for a first offense and by a fine of not less than one hundred fifty dollars nor more than three hundred dollars for a second offense and each subsequent offense.

§ 602. Arrest for violations of sections six hundred and six hundred one. A peace officer, acting pursuant to his special duties, or a police officer may, without a warrant, arrest a person, in case of violation of section six hundred and section six hundred one, which in fact have been committed, though not in his presence, when he has reasonable cause to believe that the violation was committed by such person.

§ 603. Accidents; police authorities and coroners to report. 1. Every police or judicial officer to whom an accident resulting in injury to a person shall have been reported, pursuant to the foregoing provisions of this chapter or pursuant to the provisions of sections twelve hundred forty or twelve hundred forty-one of this chapter involving a bicycle with electric assist or pursuant to the provisions of sections twelve hundred eighty-seven or twelve hundred eighty-eight of this chapter, shall immediately investigate the facts, or cause the same to be investigated, and report the matter to the commissioner forthwith; provided, however, that the report of the accident is made to the police officer or judicial officer within five days after such accident. Every coroner, or other official performing like functions, shall likewise make a report to the commissioner with respect to all deaths found to have been the result of motor vehicle, motorcycle, electric scooter, or

bicycle with electric assist accidents. Such report shall include information regarding the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway motorcycles, electric scooters, bicycles with electric assist and/or bicycles. Such report shall include information on the width and length of trucks, tractors, trailers and semitrailers, which are in excess of ninety-five inches in width or thirty-four feet in length and which are involved in such accidents, whether such accident took place in a work area and whether it was being operated with an overweight or overdimension permit. Such report shall distinctly indicate and include information as to whether the inflatable restraint system inflated and deployed. Nothing contained in this subdivision shall be deemed to preclude a police officer from reporting any other accident which, in the judgment of such police officer, would be required to be reported to the commissioner by the operator of a vehicle pursuant to section six hundred five of this article.

2. In addition to the requirements of subdivision one of this section, every police officer or judicial officer to whom an accident shall have been reported involving a commercial vehicle as defined in either subdivision four of section five hundred one-a or subdivision one of section five hundred nine-p of this chapter shall immediately investigate the facts, or cause the same to be investigated and report the matter to the commissioner forthwith, provided that the report of the accident is made to the police officer or judicial officer within five days after such accident, whenever such accident has resulted in (i) a vehicle being towed from the accident scene as the result of incurring disabling damage, (ii) a fatality, or (iii) any individual being transported to a medical facility to receive treatment as the result of physical injury sustained in the accident.

§ 603-a. Accidents; police authorities to investigate. 1. In addition to the requirements of section six hundred three of this article, whenever a motor vehicle, bicycle with electric assist, or electric scooter accident results in serious physical injury or death to a person, and such accident either is discovered by a police officer, or

reported to a police officer within five days after such accident occurred, the police shall conduct an investigation of such accident.

(a) Such investigation shall be conducted for the purposes of making a determination of the following: the facts and circumstances of the accident; the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway motorcycles, electric scooters, bicycles with electric assist, and/or bicycles; whether pedestrians were involved; the contributing factor or factors; whether it can be determined if a violation or violations of this chapter occurred, and if so, the specific provisions of this chapter which were violated and by whom; and, the cause of such accident, where such cause can be determined.

(b) When present at the scene of such accident, the investigating officer shall also request that all operators of motor vehicles involved in such accident submit to field testing as defined in section eleven hundred ninety-four of this chapter provided there are reasonable grounds to believe such motor vehicle operator committed a serious traffic violation in the same accident. The results of such field testing or refusal of such testing shall be included in the police investigation report. For the purposes of this section, "serious traffic violation" shall mean operating a motor vehicle in violation of any of the following provisions of this chapter: articles twenty-three, twenty-four, twenty-five, twenty-six, twenty-eight, twenty-nine and thirty and sections five hundred eleven, six hundred and twelve hundred twelve.

(c) The police shall forward a copy of the investigation report to the commissioner within five business days of the completion of such report.

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

(a) "commercial motor vehicle" shall have the same meaning as such term is defined in either subdivision four of section five hundred one-a or subdivision one of section five hundred nine-p of this chapter; and

(b) "serious physical injury" shall have the same meaning as such term is defined in section 10.00 of the penal law.

§ 603-b. Accidents; police to indicate serious physical injury and death on simplified traffic information or summons and compliant. In addition to the requirements of section six hundred three of this article and subdivision twelve of section eleven hundred ninety-two of this chapter, in every case where a law enforcement officer is required to report pursuant to section six hundred three of this article and a person is charged with a violation of this chapter arising out of such accident, the law enforcement officer alleging such charge shall make a clear notation in the "Description of Violation" section of a simplified traffic information, or in an area provided on a summons and complaint pursuant to subdivision one of section two hundred twenty-six of this chapter, if, arising out of the same accident, someone other than the person charged was killed or suffered serious physical injury as defined in section 10.00 of the penal law; such notation shall be in the form of a "D" if someone other than the person charged was killed and such notation shall be in the form of a "S.P.I." if someone other than the person charged suffered serious physical injury; provided however, that the failure to make such notation shall in no way affect a charge for a violation of this chapter.

§ 604. Reports; contents; preparation; distribution; filing. Reports of accidents required under sections six hundred three and six hundred three-a of this article, or under the rules and regulations of the commissioner, shall be upon forms prepared by the commissioner and contain such information as the commissioner shall prescribe; provided, however, that the commissioner shall provide space on such forms to indicate the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway motorcycles, electric scooters, bicycles with electric assist, and/or bicycles. Blank forms for such reports shall be printed by the commissioner and a supply sent to all city, town and village clerks and to the chief officer of every city police department for general distribution and use as herein provided. Reports of accidents, required under the preceding section, shall be sent to and filed with the commissioner at the main office of the bureau of motor vehicles in the city of Albany, except as otherwise provided by the

rules and regulations of the commissioner.

§ 605. Report required upon accident. (a) 1. Every person operating a motor vehicle, except a police officer (as defined in subdivision thirty-four of section 1.20 of the criminal procedure law), a correction officer, or a firefighter, operating a police department, a correction department, or fire department vehicle respectively while on duty, if a report has been filed by the owner of such vehicle, which is in any manner involved in an accident, anywhere within the boundaries of this state, in which any person is killed or injured, or in which damage to the property of any one person, including himself, in excess of one thousand dollars is sustained, shall within ten days after such accident, report the matter in writing to the commissioner. If such operator or chauffeur be physically incapable of making such report and there be another participant in the accident not incapacitated, such participant shall make such report within ten days after such accident. If the operator or chauffeur involved in such accident be unable to make such report, the owner of the motor vehicle involved in such accident, if such owner be not involved in such accident or incapacitated, shall within ten days after he learns of the fact of such accident report the matter to the commissioner together with such information as may have come to his knowledge relating to such accident. Every such operator or chauffeur of a motor vehicle, or participant in any such accident, or owner of the motor vehicle involved in any such accident, shall make such other and additional reports as the commissioner shall require.

2. Failure to report an accident as herein provided or failure to give correctly the information required of him by the commissioner in connection with such report shall be a misdemeanor and shall constitute a ground for suspension or revocation of the operator's (or chauffeur's) license or all certificates of registration for any motor vehicle, or of both, of the person failing to make such report as herein required. In addition, the commissioner may temporarily suspend the driver's license or permit or certificate of registration of the motor vehicle involved in the accident, or of both, of the person failing to report an accident within the period prescribed in paragraph one of this subdivision, until

such report has been filed. However, no suspension or a revocation shall be made of a license or certificate of registration of any police officer, correction officer, or firefighter involved in an accident while on duty for failure to report such accident within ten days thereof if a report has been filed by the owner of such vehicle.

3. In the case of a non-resident the failure to report an accident as herein provided shall constitute ground for suspension or revocation of his privileges of operating a motor vehicle in this state and of the operation within this state of any motor vehicle owned by him.

4. When a report required by this section is made by an owner or an operator of a fire vehicle, as defined by section one hundred fifteen-a of this chapter, or a police vehicle, as defined by section one hundred thirty-two-a of this chapter, when such accident occurred during the operation of such vehicle in response to an emergency where the operator was responding to a call to duty as a paid or volunteer member of any fire department, or in the case of a police vehicle, when such accident occurred during emergency operation, as defined by section one hundred fourteen-b of this chapter, the commissioner shall omit the event described in such report from the operator's external license abstract. Provided, however, the commissioner shall not omit the event described in such report from the operator's external license abstract if as a result of such event such operator has either (i) been charged with a violation of this chapter or of the penal law, unless the commissioner receives evidence that such charge has been dismissed, or that the action has otherwise been terminated in favor of the accused pursuant to section 160.50 of the criminal procedure law, or that the charge has otherwise been adjudicated in an administrative or other proceeding in favor of the defendant operator or (ii) been found to have been grossly negligent by a final order of a court of competent jurisdiction.

(b) Every person operating an electric scooter or a bicycle which is in any manner involved in an accident on a public highway in this state in which any person is killed, other than the operator, or suffers serious physical injury as defined pursuant to subdivision ten of section 10.00 of the penal law, shall within ten days after such operator learns of the fact of such death or serious physical injury,

report the matter in writing to the commissioner. If such operator is physically incapable of making such report within ten days, he or she shall make the report immediately upon recovery from the physical incapacity. If such operator is an unemancipated minor who is incapable of making such report for any reason, the parent or guardian of such operator shall make such report within ten days after learning of the fact of such accident. Every such operator of an electric scooter or a bicycle, or parent or guardian of such unemancipated minor operator, shall make such other and additional reports as the commissioner shall require.

(c) The report required by this section shall be made in such form and number as the commissioner may prescribe. Such report shall include information on the width and length of trucks, tractors, trailers and semitrailers, which are in excess of ninety-five inches in width or thirty-four feet in length and which are involved in such accidents, whether such accident took place in a work area and whether it was being operated with an overweight or over dimension permit. Such report shall distinctly indicate and include information as to whether the inflatable restraint system inflated and deployed. Such report shall include information on the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway motorcycles, electric scooters, bicycles with electric assist, and/or bicycles.

§ 606. Processing of required reports. The commissioner, when processing reports of accidents filed pursuant to this article, shall give priority to reports involving serious physical injury (as defined in subdivision ten of section 10.00 of the penal law) or death.

TITLE VII

RULES OF THE ROAD

Article 23. Obedience to and effect of traffic laws.
24. Traffic signs, signals and markings.
25. Driving on right side of roadway, overtaking and passing, etc.

26. Right of way.
27. Pedestrians' rights and duties.
28. Turning and starting and signals on stopping and turning.
29. Special stops required.
30. Speed restrictions.
31. Reckless driving and driving while in an intoxicated condition.
32. Stopping, standing, and parking.
33. Miscellaneous rules.
34. Operation of bicycles and play devices.
34-A. Operation of motorcycles.
34-B. Riding horses.
34-C. Operation of electric personal assistive mobility devices.
34-D. Operation of electric scooters.

ARTICLE 23

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

Section 1100. Provisions of title refer to vehicles upon highways; execptions.
1101. Required obedience to traffic laws.
1102. Obedience to police officers and flagpersons.
1103. Public officers and employees to obey title; exceptions.
1104. Authorized emergency vehicles.
1105. Traffic laws apply to persons riding animals or driving animal-drawn vehicles.

§ 1100. Provisions of title refer to vehicles upon highways; exceptions. (a) The provisions of this title apply upon public highways, private roads open to public motor vehicle traffic and any other parking lot, except where a different place is specifically referred to in a given section.

(b) The provisions of this title relating to obedience to stop signs, flashing signals, yield signs, traffic-control signals and other traffic-control devices, and to one-way, stopping, standing, parking and turning regulations shall apply to a parking lot only when the

legislative body of any city, village or town has adopted a local law, ordinance, rule or regulation ordering such signs, signals, devices, or regulations.

(c) Notwithstanding the provisions of subdivision (b) of this section, the provisions of subparagraph e of paragraph two of subdivision (a) of section twelve hundred two and section twelve hundred three-c of this chapter shall also apply to any area which has been designated as a place for parking for handicapped persons pursuant to such section.

(d) The provisions of this title shall apply upon roadways, streets, and highways located within the boundaries of any federal military installations over which the federal government has proprietary jurisdiction if written request therefor is made by the commanding officer of such installation of the chief executive officer or officers of the political subdivision or subdivisions in which such installation is located and if the commanding officer of such installation shall post at the gates of such installation a notice informing all motorists entering such installation of such enforcement.

§ 1101. Required obedience to traffic laws. It is unlawful and, unless otherwise declared in this title with respect to particular offenses, it is a traffic infraction for any person to do any act forbidden or fail to perform any act required in this title.

§ 1102. Obedience to police officers and flagpersons. No person shall fail or refuse to comply with any lawful order or direction of any police officer or flagperson or other person duly empowered to regulate traffic.

§ 1103. Public officers and employees to obey title; exceptions. (a) The provisions of this title applicable to the drivers of vehicles upon the highways shall apply to drivers of all vehicles owned or operated by the United States, this state, or any county, city, town, district, or any other political subdivision of the state, except as provided in this section and subject to such specific exceptions as are set forth in this

title with reference to authorized emergency vehicles.

(b) Unless specifically made applicable, the provisions of this title, except the provisions of sections eleven hundred ninety-two through eleven hundred ninety-six of this chapter, shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work on a highway nor shall the provisions of subsection (a) of section twelve hundred two apply to hazard vehicles while actually engaged in hazardous operation on or adjacent to a highway but shall apply to such persons and vehicles when traveling to or from such hazardous operation. The foregoing provisions of this subdivision shall not relieve any person, or team or any operator of a motor vehicle or other equipment while actually engaged in work on a highway from the duty to proceed at all times during all phases of such work with due regard for the safety of all persons nor shall the foregoing provisions protect such persons or teams or such operators of motor vehicles or other equipment from the consequences of their reckless disregard for the safety of others.

§ 1104. Authorized emergency vehicles. (a) The driver of an authorized emergency vehicle, when involved in an emergency operation, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

1. Stop, stand or park irrespective of the provisions of this title;

2. Proceed past a steady red signal, a flashing red signal or a stop sign, but only after slowing down as may be necessary for safe operation;

3. Exceed the maximum speed limits so long as he does not endanger life or property;

4. Disregard regulations governing directions of movement or turning in specified directions.

(c) Except for an authorized emergency vehicle operated as a police vehicle or bicycle, the exemptions herein granted to an authorized

emergency vehicle shall apply only when audible signals are sounded from any said vehicle while in motion by bell, horn, siren, electronic device or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp so that from any direction, under normal atmospheric conditions from a distance of five hundred feet from such vehicle, at least one red light will be displayed and visible.

(d) An authorized emergency vehicle operated as a police, sheriff or deputy sheriff vehicle may exceed the maximum speed limits for the purpose of calibrating such vehicles' speedometer. Notwithstanding any other law, rule or regulation to the contrary, a police, sheriff or deputy sheriff bicycle operated as an authorized emergency vehicle shall not be prohibited from using any sidewalk, highway, street or roadway during an emergency operation.

(e) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(f) Notwithstanding any other law, rule or regulation to the contrary, an ambulance operated in the course of an emergency shall not be prohibited from using any highway, street or roadway; provided, however, that an authority having jurisdiction over any such highway, street or roadway may specifically prohibit travel thereon by ambulances if such authority shall deem such travel to be extremely hazardous and would endanger patients being transported thereby.

§ 1105. Traffic laws apply to persons riding animals or driving animal-drawn vehicles. Every person riding an animal or driving an animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except those provisions of this title which by their very nature can have no application.

ARTICLE 24
TRAFFIC SIGNS, SIGNALS AND MARKINGS

Section 1110. Obedience to and required traffic-control devices.

1111. Traffic-control signal indications.

1111-a. Owner liability for failure of operator to comply with traffic-control indications.

1111-b. Owner liability for failure of operator to comply with traffic-control indications. (county of Nassau)

1111-b*2. Owner liability for failure of operator to comply with traffic-control indications. (city of Yonkers)

1111-b*3. Owner liability for failure of operator to comply with traffic-control indications. (county of Suffolk)

1111-c. Owner liability for failure of operator to comply with bus lane restrictions.

1111-c-1. Owner liability for failure of operator to comply with bus operation-related traffic regulations.

1111-d. Owner liability for failure of operator to comply with traffic-control indications.

1111-d*2. Owner liability for failure of operator to comply with traffic-control indications.

1111-d*3. Owner liability for failure of operator to comply with traffic-control indications.

1111-e. Owner liability for failure of operator to comply with traffic-control indications.

1111-f. Owner liability for failure of operator to comply with traffic-control indications.

1111-g. Owner liability for failure of operator to comply with traffic-control indications.

1111-g*2. Owner liability for failure of operator to comply with traffic-control indications.

1111-h. Owner liability for failure of operator to comply with traffic-control indications; town of Greenburgh.

1111-i. Owner liability for failure of operator to comply with traffic-control indications; city of Peekskill.

1111-i*2. Owner liability for failure of operator to comply with traffic-control indications; village of Croton-on-Hudson.

1111-j. Owner liability for failure of operator to comply with traffic-control indications; city of Poughkeepsie.

1111-j*2. Owner liability for failure of operator to comply with traffic-control indications; city of Ithaca.
1111-j*3. Owner liability for failure of operator to comply with traffic-control indications; town of Woodbury.
1112. Pedestrian-control signal indications.
1113. Flashing signal indications.
1114. Display of unauthorized signs, signals, or markings.
1115. Interference with official traffic-control devices, railroad signs or signals and other highway appurtenances.
1116. Lane-use control signal indications.
1117. Traffic-control signals; malfunction.

§ 1110. Obedience to and required traffic-control devices. (a) Every person shall obey the instructions of any official traffic-control device applicable to him placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this title.

(b) No provision of this title for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

(c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(d) Any official traffic-control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

(e) For purposes of this article, "intersection" shall include the area embracing the juncture of a highway with a private road or driveway and "intersecting roadway" shall include an intersecting private road or driveway.

§ 1111. Traffic-control signal indications. Whenever traffic is controlled by traffic-control signals, other than lane direction control signal indications provided in section eleven hundred sixteen, exhibiting different colored lights, or colored lighted arrows, successively, one at a time or in combination, only the colors green, yellow and red shall be used, and said lights shall indicate and apply to drivers of vehicles and to pedestrians as follows:

(a) Green indications:

1. Traffic, except pedestrians, facing a steady circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Such traffic, including when turning right or left, shall yield the right of way to other traffic lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

2. Traffic, except pedestrians, facing a steady green arrow signal may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time, except that a U-Turn may be made by traffic facing a left green arrow signal unless a sign prohibits such U-Turn or such U-Turn is in violation of any other provision of law. Such traffic shall yield the right of way to other traffic lawfully within the intersection or an adjacent cross walk at the time such signal is exhibited.

3. Unless otherwise directed by a pedestrian-control signal as provided in section eleven hundred twelve, pedestrians facing any steady green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) Yellow indications:

1. Traffic, except pedestrians, facing a steady circular yellow signal may enter the intersection; however, said traffic is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter.

2. Traffic, except pedestrians, facing a steady yellow arrow signal may cautiously enter the intersection only to complete the movement indicated by such arrow or make such other movement as is permitted by other indications shown at the same time; however, said traffic is thereby warned that the related green arrow movement is being terminated or that a red indication will be exhibited immediately thereafter.

3. Unless otherwise directed by a pedestrian-control signal as provided in section eleven hundred twelve, pedestrians facing any steady yellow signal are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(d) Red indications:

1. Traffic, except pedestrians, facing a steady circular red signal, unless to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in paragraph two of this subdivision.

2. Except in a city having a population of one million or more, unless a sign is in place prohibiting such turn:

a. Traffic facing a steady circular red signal may cautiously enter the intersection to make a right turn after stopping as required by paragraph one of this subdivision, except that right turning traffic is not required to stop when a steady right green arrow signal is shown at

the same time. Such traffic shall yield the right-of-way to pedestrians within a marked or unmarked crosswalk at the intersection and to other traffic lawfully using the intersection;

b. Traffic, while on a one-way roadway, facing a steady red signal may cautiously enter the intersection to make a left turn onto a one-way roadway after stopping as required by paragraph one of this subdivision. Such traffic shall yield the right-of-way to pedestrians within a marked or unmarked crosswalk at the intersection and to other traffic lawfully using the intersection.

c. On or after the effective date of this subparagraph, the sign which prohibits such turn shall be prominently displayed from all newly installed traffic signals where possible.

Notwithstanding any other provision of law, any city having a population of one million or more, is hereby authorized and empowered to adopt a local law authorizing subparagraph a or b of this paragraph to be applicable within such city. Upon the adoption of such local law the exception provided herein for a city having a population of one million or more shall no longer be applicable within such city.

3. Traffic, except pedestrians, facing a steady red arrow signal may not enter the intersection to make the movement indicated by such arrow and, unless entering the intersection to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and shall remain standing until an indication to proceed is shown.

4. Unless otherwise directed by a pedestrian-control signal as provided in section eleven hundred twelve, pedestrians facing any steady red signal shall not enter the roadway.

5. Notwithstanding the provision of paragraph two of this subdivision, no school bus, while transporting pupils for any purpose, shall be permitted to proceed when facing a steady red signal.

(e) Traffic shall obey signs requiring obedience to traffic-control signals at intersections other than those at which such signals are located. No intersection not controlled by such signs prior to the effective date of this section shall hereafter be made subject to such method of control and no ordinance, order, rule or regulation requiring such obedience shall hereafter be adopted.

(f) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

*** § 1111-a. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, each city with a population of one million or more is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower a city to install and operate traffic-control signal photo violation-monitoring devices at no more than six hundred intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a

vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that in a city which, by local law, has authorized the adjudication of such owner liability by a

parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 having jurisdiction over the intersection where the violation occurred, or by any other entity authorized by the city to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that any city which has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations may, by local law, authorize such adjudication by such tribunal.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In a city 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 subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends 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 subdivision

(d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In a city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand seven and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. within each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. within each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for the preceding three years that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring

system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

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

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system since 2014;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2027

*** § 1111-b. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, the county of Nassau is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such

county in accordance with the provisions of this section. Such demonstration program shall empower such county to install and operate traffic-control signal photo violation-monitoring devices at no more than one hundred intersections within and under the jurisdiction of such county at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such county has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such county which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by Nassau county in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs,

videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 Nassau county or by any other entity authorized by such county to prepare and mail such notification of violation.

(h) Adjudication of the liability imposed upon owners by this section shall be by the court having jurisdiction over traffic infractions.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the court having jurisdiction.

(j) 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 (d) of section eleven hundred eleven of this article, provided that he or she sends to the 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 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 subdivision (d) of section eleven hundred eleven of this article 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) When a county has established a demonstration program pursuant to this section, all fines and penalties collected under such program shall be made to the county treasurer within the first ten days of the month following collection.

(n) Any county that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand ten and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring

system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of disposition made for violations recorded by such systems;

8. the total amount of revenue realized by such county from such adjudications including a breakdown of revenue realized by such county for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such county in connection with the program; and

10. quality of the adjudication process and its results.

(o) It shall be a defense to any prosecution for a violation of

subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2029

* NB There are 3 § 1111-b's

*** § 1111-b. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, the city of Yonkers is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower such city to install and operate traffic-control signal photo violation-monitoring devices at no more than twenty-five intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Yonkers in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if such city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

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

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that if such 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.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section

eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In such city 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 subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends 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 subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In such city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo

violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand ten and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for

violations recorded by such systems;

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2029

* NB There are 3 § 1111-b's

*** § 1111-b. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, the county of Suffolk is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such county in accordance with the provisions of this section. Such demonstration program shall empower such county to install and operate traffic-control signal photo violation-monitoring devices at no more than one hundred intersections within and under the jurisdiction of such county at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph

or photographs allow for the identification of the contents of a vehicle, provided that such county has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such county which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by Suffolk county in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance. The liability of the owner

pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 Suffolk county or by any other entity authorized by such county to prepare and mail such notification of violation.

(h) Adjudication of the liability imposed upon owners by this section shall be by the court having jurisdiction over traffic infractions.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the court having jurisdiction.

(j) 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 (d) of section eleven hundred eleven of this article, provided that he or she sends to the 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 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 subdivision (d) of section eleven hundred eleven of this article 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 subdivision (d) of section eleven hundred eleven 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 failed to

obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) When a county has established a demonstration program pursuant to this section, all fines and penalties collected under such program shall be made to the county treasurer within the first ten days of the month following collection.

(n) Any county that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand ten and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each

intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of disposition made for violations recorded by such systems;

8. the total amount of revenue realized by such county from such adjudications including a breakdown of revenue realized by such county for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such county in connection with the program; and

10. quality of the adjudication process and its results.

(o) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2024

* NB There are 3 § 1111-b's

*** § 1111-c. Owner liability for failure of operator to comply with bus lane restrictions.** (a) 1. Notwithstanding any other provision of law, the city of New York is hereby authorized and empowered to establish a bus rapid transit program imposing monetary liability on the owner of a

vehicle for failure of an operator thereof to comply with bus lane restrictions in such city in accordance with the provisions of this section. The New York city department of transportation or applicable mass transit agency, for purposes of the implementation of such program, shall operate bus lane photo devices only within designated bus lanes in such bus rapid transit program. Such bus lane photo devices may be stationary or mobile and shall be activated at locations determined by such department of transportation and/or on buses selected by such department of transportation in consultation with the applicable mass transit agency, however, the applicable mass transit agency may also install no less than fifty mobile bus lane photo devices on buses operating on designated bus lanes in such bus rapid transit program below 96th street in the borough of Manhattan, in consultation with the New York city department of transportation for the purposes of this section.

2. Any image or images captured by bus lane photo devices shall be inadmissible in any disciplinary proceeding convened by the applicable mass transit agency or any subsidiary thereof and any proceeding initiated by the department involving licensure privileges of bus operators. Any mobile bus lane photo device mounted on a bus shall be directed outwardly from such bus to capture images of vehicles operated in violation of bus lane restrictions, and images produced by such device shall not be used for any other purpose in the absence of a court order requiring such images to be produced.

3. (i) The city of New York shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a bus lane photo device. Such measures shall include:

(A) utilization of necessary technologies to ensure, to the extent practicable, that photographs, microphotographs, videotape or other recorded images produced by such bus lane photo devices 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 a vehicle where the city shows that it made reasonable efforts to comply with the provisions of this paragraph in such case;

(B) the installation of signage that is clearly visible to drivers at regular intervals along and adjacent to bus lanes stating that mobile and/or stationary bus lane photo devices are used to enforce bus lane restrictions, in conformance with standards established in the MUTCD; and

(C) oversight procedures to ensure compliance with the privacy protection measures under this subdivision.

(ii) Photographs, microphotographs, videotape or any other recorded image from a bus lane photo device shall be for the exclusive use of the city of New York 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 such city 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 bus lane photo device 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, microphotographs, 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.

(iii) The demonstration program authorized pursuant to this section is prohibited from utilizing and from arranging for the utilization of biometric identifying technology, including but not limited to facial recognition technology, for any purpose. The use, and the arrangement for the use, of biometric identifying technology, including but not limited to facial recognition technology, on photographs, microphotographs, videotape, or any other recorded image or data produced by a bus lane photo device, by any person for any purpose, are prohibited. For purposes of this subparagraph, "person" shall include, but not be limited to, a human being, a public or private corporation, an unincorporated association, a partnership, a government or a

governmental instrumentality, a court or an administrative or adjudicatory body, and any employee, officer, and agent of the foregoing.

(iv) Any applicable mass transit agency operating bus lane photo devices shall be prohibited from accessing any photographs, microphotographs, videotapes, other recorded images or data from bus lane photo devices but shall provide, pursuant to an agreement with the city of New York, for the proper handling and custody of such photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to such city for the purpose of determining whether a motor vehicle was operated in violation of bus lane restrictions and imposing monetary liability on the owner of such motor vehicle therefor.

(v) Every bus upon which a mobile bus lane photo device is installed and operated pursuant to a bus rapid transit program authorized pursuant to this section shall be equipped with signs, placards or other displays giving notice to approaching motor vehicle operators that bus lane photo devices are used to enforce bus lane restrictions.

4. Within the city of New York, such bus lane photo devices may only be operated on designated bus lanes. Warning notices of violation be issued during the first sixty days that bus lane photo devices are operated on each route in the bus rapid transit program that is established after June fifteenth, two thousand fifteen.

(b) If the city of New York has established a bus rapid transit 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, in violation of any bus lane restrictions that apply to routes within such program, and such violation is evidenced by information obtained from a bus lane photo device; 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 any bus lane restrictions.

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

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

2. "bus lane photo device" shall mean a device that is capable of operating independently of an enforcement officer and produces one or more images of each vehicle at the time it is in violation of bus lane restrictions.

3. "bus lane restrictions" shall mean restrictions on the use of designated traffic lanes by vehicles other than buses imposed on routes within a bus rapid transit program by local law and signs erected by the department of transportation of a city that establishes such a program pursuant to this section.

4. "Bus Rapid Transit Phase I plan" shall mean the following five bus rapid transit routes as designated by the New York city department of transportation: Fordham Road, First/Second Avenue, Nostrand Avenue, Thirty-Fourth Street, Hylan Boulevard, and an undesignated route in the borough of Queens not to exceed ten miles.

5. "bus rapid transit program" shall mean routes designated by the New York city department of transportation in consultation with the applicable mass transit agency, in addition to the Bus Rapid Transit Phase I plan routes, that operate on designated bus lanes and that may include upgraded signage, enhanced road markings, minimum bus stop spacing, off-board fare payment, traffic signal priority for buses, and any other enhancement that increases bus speed or reliability.

6. "designated bus lane" shall mean a lane dedicated for the exclusive use of buses with the exceptions allowed under 4-12(m) and 4-08(a)(3) of title 34 of the rules of the city of New York.

7. "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.

8. "biometric identifying technology" shall mean any tool using an automated or semi-automated process that assists in verifying a person's identity based on a person's biometric information.

9. "biometric information" shall mean any measurable physical, physiological or behavioral characteristics that are attributable to a person, including but not limited to facial characteristics, fingerprint characteristics, hand characteristics, eye characteristics, vocal characteristics, and any other characteristics that can be used to identify a person including, but not limited to: fingerprints; handprints; retina and iris patterns; DNA sequence; voice; gait; and facial geometry.

10. "facial recognition" shall mean any tool using an automated or semi-automated process that assists in uniquely identifying or verifying a person by comparing and analyzing patterns based on the person's face.

(d) A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a bus lane photo device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to this section.

(e) An owner liable for a violation of a bus lane restriction imposed on any route within a bus rapid transit program shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of the city of New York. The liability of the owner pursuant to this section shall not exceed fifty dollars for a first violation, one hundred dollars for a second violation within a twelve-month period, one hundred fifty dollars for a third violation within a twelve-month period, two hundred dollars for a fourth violation within a twelve-month period, and two hundred fifty dollars for each subsequent violation within a twelve-month period; provided, further, that an owner shall be liable for an additional

penalty not to exceed 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 pursuant to this section shall not be deemed a conviction of 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 a bus lane restriction. Personal delivery to 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 a bus lane restriction, the registration number of the vehicle involved in such violation, the location where such violation took place including the street address or cross streets, one or more images identifying the violation, the date and time of such violation and the identification number of the bus lane photo device which recorded the violation or other document locator number.

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

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

(h) If an owner of a vehicle receives a notice of liability pursuant to this section for any time period during which 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 a bus lane restriction that the 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 be sent by first class mail to the parking violations bureau of such city.

(i) 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 a bus lane restriction, 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 lessor 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.

(j) 1. If the owner liable for a violation of a bus lane restriction

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 failed to obey a bus lane restriction. 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 failed to obey a bus lane restriction.

(k) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of bus lane restrictions.

(l) If the city of New York adopts a bus rapid transit demonstration program pursuant to subdivision (a) of this section it shall submit a report on the results of the use of bus lane photo devices to the governor, the temporary president of the senate and the speaker of the assembly by April first, two thousand twelve and every two years thereafter. The city of New York and applicable mass transit agency shall also make such reports available on their public-facing websites, provided that they may provide aggregate data from paragraph one of this subdivision if the city finds that publishing specific location data would jeopardize public safety. Such report shall include, but not be limited to:

1. a description of the locations and/or buses where bus lane photo devices were used;

2. the total number of violations recorded on a monthly and annual basis;

3. the total number of notices of liability issued;

4. the number of fines and total amount of fines paid after the first notice of liability;

5. the number of violations adjudicated and results of such

adjudications including breakdowns of dispositions made;

6. the total amount of revenue realized by such city and any participating mass transit agency and an itemized list of expenditures made by the participating mass transit agency with these revenues;

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

8. the total number of cameras by type of camera;

9. the total cost to the city and the total cost to any participating mass transit agency; and

10. a detailed report on the bus speeds, reliability, and ridership before and after implementation of the bus rapid transit demonstration program for each bus route, including current statistics.

(m) Any revenue from fines and penalties collected pursuant to this section from any mobile bus lane photo devices, not including any revenue shared with the city of New York pursuant to agreement shall be remitted by the city of New York to the applicable mass transit agency on a quarterly basis to be deposited in the general transportation account of the New York city transportation assistance fund established pursuant to section twelve hundred seventy-i of the public authorities law.

(n) It shall be a defense to any prosecution for a violation of a bus lane restriction pursuant to a bus rapid transit program adopted pursuant to this section that such bus lane photo devices were malfunctioning at the time of the alleged violation.

(o) It shall be a defense to any notice of liability issued to the owner of a metropolitan transportation authority vehicle for standing, stopping, or parking in a bus lane in violation of the applicable provisions of section 4-08 of chapter four of title thirty-four of the rules of the city of New York pursuant to a bus rapid transit program adopted pursuant to this section that the operator of the vehicle was a metropolitan transportation authority employee performing authorized duties involving a metropolitan transportation authority vehicle in such bus lane.

* NB Repealed July 1, 2028

*** § 1111-c-1. Owner liability for failure of operator to comply with bus operation-related traffic regulations.** (a) 1. Notwithstanding any other provision of law, the city of New York is hereby authorized and empowered to establish a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with bus operation-related traffic regulations, in accordance with the provisions of this section. The New York city department of transportation and/or applicable mass transit agency, for purposes of the implementation of such program, shall operate bus operation-related photo devices that may be stationary or mobile and shall be activated at locations determined by such department of transportation and/or on buses selected by such department of transportation in consultation with the applicable mass transit agency.

2. Any photographs, microphotographs, videotape or other recorded images captured by bus operation-related photo devices shall be inadmissible in any disciplinary proceeding convened by the applicable mass transit agency or any subsidiary thereof and any proceeding initiated by the department involving licensure privileges of bus operators. Any mobile bus operation-related photo device mounted on a bus shall be directed outwardly from such bus to capture images of vehicles operated in violation of bus operation-related traffic regulations, and images produced by such device shall not be used for any other purpose in the absence of a court order requiring such images to be produced.

3. (i) The city of New York shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a bus operation-related photo device. Such measures shall include:

(A) utilization of necessary technologies to ensure, to the extent practicable, that photographs, microphotographs, videotape or other recorded images produced by such bus operation-related photo devices 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 a vehicle where the city shows that it made reasonable efforts to comply with the provisions of this paragraph in such case;

(B) the installation of signage that is clearly visible to drivers at regular intervals along and adjacent to roadways upon which mobile and/or stationary bus operation-related photo devices are operated pursuant to a demonstration program authorized pursuant to this section stating that mobile and/or stationary bus operation-related photo devices are used to enforce bus operation-related traffic regulations, in conformance with standards established in the MUTCD; and

(C) oversight procedures to ensure compliance with the privacy protection measures under this subdivision.

(ii) Photographs, microphotographs, videotape or any other recorded image from a bus operation-related photo device shall be for the exclusive use of the city of New York 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 such city 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 bus operation-related photo device 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, microphotographs, 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.

(iii) The demonstration program authorized pursuant to this section is prohibited from utilizing and from arranging for the utilization of biometric identifying technology, including but not limited to facial recognition technology, for any purpose. The use, and the arrangement for the use, of biometric identifying technology, including but not limited to facial recognition technology, on photographs,

microphotographs, videotape, or any other recorded image or data produced by a bus operation-related photo device, by any person for any purpose, are prohibited. For purposes of this subparagraph, "person" shall include, but not be limited to, a human being, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality, a court or an administrative or adjudicatory body, and any employee, officer, and agent of the foregoing.

(iv) Any applicable mass transit agency operating bus operation-related photo devices shall be prohibited from accessing any photographs, microphotographs, videotapes, other recorded images or data from bus operation-related photo devices but shall provide, pursuant to an agreement with the city of New York, for the proper handling and custody of such photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to such city for the purpose of determining whether a motor vehicle was operated in violation of bus operation-related traffic regulations and imposing monetary liability on the owner of such motor vehicle therefor.

(v) Every bus upon which a mobile bus operation-related photo device is installed and operated pursuant to a demonstration program authorized pursuant to this section shall be equipped with signs, placards or other displays giving notice to approaching motor vehicle operators that bus operation-related photo devices are used to enforce bus operation-related traffic regulations.

(b) Warning notices of violation shall be issued during the first sixty days that bus operation-related photo devices pursuant to a demonstration program authorized by this section are active and in operation.

(c) If the city of New York has established 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, in violation of any bus operation-related traffic regulations and such violation is evidenced by information obtained from a bus operation-related photo device; 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 such bus operation-related traffic regulation.

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

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

2. "bus operation-related photo device" shall mean a device that is capable of operating independently of an enforcement officer and produces one or more images of each vehicle at the time it is in violation of a bus operation-related traffic regulation.

3. "bus operation-related traffic regulations" shall mean the following provisions set forth in chapter four of title thirty-four of the rules of the city of New York, adopted pursuant to section sixteen hundred forty-two of this chapter: 4-08(c)(3), violation of posted no standing rules prohibited-bus stop; 4-08(e)(9), general no stopping zones-bicycle lanes; 4-08(f)(1), general no standing zones-double parking; and 4-08(f)(4), general no standing zones-bus lane.

4. "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.

5. "biometric identifying technology" shall mean any tool using an automated or semi-automated process that assists in verifying a person's identity based on a person's biometric information.

6. "biometric information" shall mean any measurable physical, physiological or behavioral characteristics that are attributable to a person, including but not limited to facial characteristics, fingerprint characteristics, hand characteristics, eye characteristics, vocal characteristics, and any other characteristics that can be used to identify a person including, but not limited to: fingerprints;

handprints; retina and iris patterns; DNA sequence; voice; gait; and facial geometry.

7. "facial recognition" shall mean any tool using an automated or semi-automated process that assists in uniquely identifying or verifying a person by comparing and analyzing patterns based on the person's face.

(e) A certificate, sworn to or affirmed by a technician employed by the city of New York in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a bus operation-related photo device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to this section.

(f) An owner liable for a violation of a bus operation-related traffic regulation 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 parking violations bureau of the city of New York. The liability of the owner pursuant to this section shall not exceed fifty dollars for a first violation, one hundred dollars for a second violation within a twelve-month period, one hundred fifty dollars for a third violation within a twelve-month period, two hundred dollars for a fourth violation within a twelve-month period, and two hundred fifty dollars for each subsequent violation within a twelve-month period; provided, however, that an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

(g) An imposition of liability under the demonstration program established pursuant to this section shall not be deemed a conviction of 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.

(h) 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 a bus operation-related traffic regulation. Personal delivery to 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 a bus operation-related traffic regulation, the registration number of the vehicle involved in such violation, the location where such violation took place including the street address or cross streets, one or more images identifying the violation, the date and time of such violation, the identification number of the bus operation-related photo device which recorded the violation or other document locator number, and whether the device was stationary or mobile. If the bus operation-related photo device was mobile, an identity of the vehicle containing such bus operation-related photo device shall be included in the notice.

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

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

(j) If an owner of a vehicle receives a notice of liability pursuant to this section for any time period during which 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 a bus operation-related traffic regulation pursuant to this section that the 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 be sent by first class mail to the parking violations bureau of such city.

(k) 1. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (h) of this section shall not be liable for the violation of a bus operation-related traffic regulation, 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 parking violations 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 lessor 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 (h) of this section.

(l) 1. If the owner liable for a violation of a bus operation-related traffic regulation pursuant to this section was not the operator of the vehicle at the time of such 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 failed to obey a bus operation-related traffic regulation. 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 failed to obey a bus operation-related traffic regulation.

(m) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of a bus operation-related traffic regulation.

(n) If the city of New York adopts a demonstration program pursuant to subdivision (a) of this section, such city and the applicable mass transit agency shall submit a report on the results of the use of bus operation-related photo devices to the governor, the temporary president of the senate, and the speaker of the assembly by April first, two thousand twenty-five and every two years thereafter. The city of New York and applicable mass transit agency shall also make such reports available on their public-facing websites, provided that they may provide aggregate data from paragraph one of this subdivision if the city finds that publishing specific location data would jeopardize public safety. Such report shall include, but not be limited to:

1. a description of the locations and/or buses where bus operation-related photo devices were used;

2. the total number of violations recorded on a monthly and annual basis;

3. the total number of notices of liability issued;

4. the number of fines and total amount of fines paid after the first notice of liability;

5. the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made;

6. the total amount of revenue realized by such city and any

participating mass transit agency and an itemized list of expenditures made by the participating mass transit agency with these revenues;

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

8. the total number of cameras by type of camera used;

9. the total cost to such city and the total cost to any participating mass transit agency; and

10. a detailed report on the bus speeds, reliability, and ridership before and after implementation of the demonstration program for each bus route, including current statistics.

(o) Any revenue from fines and penalties collected from any mobile bus operation-related photo devices, not including any revenue shared with the city of New York pursuant to agreement, shall be remitted by the city of New York to the applicable mass transit agency on a quarterly basis to be deposited in the general transportation account of the New York city transportation assistance fund established pursuant to section twelve hundred seventy-i of the public authorities law.

(p) It shall be a defense to any prosecution for a violation of a bus operation-related traffic regulation pursuant to a demonstration program adopted pursuant to this section that such bus operation-related photo devices were malfunctioning at the time of the alleged violation.

(q) It shall be a defense to any notice of liability issued to the owner of a metropolitan transportation authority vehicle for a violation of section 4-08(f)(4) of chapter four of title thirty-four of the rules of the city of New York pursuant to a demonstration program adopted pursuant to this section that the operator of the vehicle was a metropolitan transportation authority employee performing authorized duties involving a metropolitan transportation authority vehicle in such bus lane.

* NB Repealed July 1, 2028

*** § 1111-d. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision

of law, the city of New Rochelle is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower such city to install and operate traffic-control signal photo violation-monitoring devices at no more than twelve intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city of New Rochelle in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if such city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 Rochelle, or by any other entity authorized by such city to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that if such 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.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In such city 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 subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends 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 subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (I) In such city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

(II) Failure to comply with clause (B) of subparagraph (I) of this

paragraph shall render the owner liable for the penalty prescribed in this section.

(III) 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand fifteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at

intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

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

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2029

* NB There are 3 § 1111-d's

*** § 1111-d. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, the city of Mt. Vernon is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower such city to install and operate traffic-control signal photo violation-monitoring devices at no more than twelve intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Mt. Vernon in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if such city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 Mt. Vernon, or by any other entity authorized by such city to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that if such 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.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In such city 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 subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends 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 subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (I) In such city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

(II) Failure to comply with clause (B) of subparagraph (I) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(III) 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing

the results of the use of such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand fifteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

7. the number and percentage of violations adjudicated and results of

such adjudications including breakdowns of dispositions made for violations recorded by such systems;

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2029

* NB There are 3 § 1111-d's

*** § 1111-d. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, the city of Albany is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower such city to install and operate traffic-control signal photo violation-monitoring devices at no more than twenty intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph

or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Albany in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if such city by local

law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 Albany, or by any other entity authorized by such city to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that if such 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.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In such city 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 subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends 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 subdivision

(d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (I) In such city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

(II) Failure to comply with clause (B) of subparagraph (I) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(III) 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand fifteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly

basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

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

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2029

* NB There are 3 § 1111-d's

*** § 1111-e. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, the city of White Plains is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control

indications in such city in accordance with the provisions of this section. Such demonstration program shall empower such city to install and operate traffic-control signal photo violation-monitoring devices at no more than twelve intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city of White Plains in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a

traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if such city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 White Plains, or by any other entity authorized by such city to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that if such 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.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In such city 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 subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends 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 subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (I) In such city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

(II) Failure to comply with clause (B) of subparagraph (I) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(III) 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

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

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of

the alleged violation.

* NB Repealed December 1, 2029

*** § 1111-f. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, the village of Pelham Manor is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such village in accordance with the provisions of this section. Such demonstration program shall empower such village to install and operate traffic-control signal photo violation-monitoring devices at no more than one intersection within and under the jurisdiction of such village at any one time; provided, however, that where one of the two highways joining one another at such intersection is a state highway maintained by the state, such village may install and operate such traffic-control signal photo violation-monitoring device in a manner affecting traffic proceeding along such state highway at such intersection if it has obtained approval in writing from the department of transportation, and the department of transportation may at any time rescind or modify such approval.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such village has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such village which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred

eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the village of Pelham Manor in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 Pelham Manor or by any other entity authorized by such village to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau or court having jurisdiction.

(j) 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 (d) of section eleven hundred eleven of this article, provided that he or she sends 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 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 the violation of subdivision (d) of section eleven hundred eleven of this article 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any village that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems which shall be provided at least annually to such village by the respective courts and bureaus conducting such adjudications;

8. the total amount of revenue realized by such village from such adjudications including a breakdown of revenue realized by such village for each year since deployment of its traffic-control signal photo violation-monitoring system;

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

10. quality of the adjudication process and its results which shall be provided at least annually to such village by the respective courts and bureaus conducting such adjudications.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2031

*** § 1111-g. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, the city of Syracuse is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower such city to install and operate traffic-control signal photo violation-monitoring devices at no more than thirty-six

intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Syracuse in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic- control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if such city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest

the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 Syracuse, or by any other entity authorized by such city to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that if such 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.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In such city 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 subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends 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 subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. a. In such city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

b. Failure to comply with clause (B) of subparagraph a of this paragraph shall render the owner liable for the penalty prescribed in this section.

c. 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

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

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB There are 2 § 1111-g's
* NB Repealed October 28, 2028

*** § 1111-g. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, the county of Westchester is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such county in accordance with the provisions of this section. Such demonstration program shall empower such county to install and operate traffic-control signal photo violation-monitoring devices at no more than fifty intersections within and under the jurisdiction of such county at any one time. Provided that, in addition to the fifty intersections within and under its jurisdiction, such county may install and operate traffic-control signal photo violation-monitoring devices at no more than one intersection located on the portion of the Saw Mill River parkway within the village of Pleasantville, county of Westchester, upon approval in writing obtained by such county from the department of transportation, provided that the department of transportation may at any time rescind or modify such approval.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such county has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such county which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred

eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by Westchester county in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 Westchester county or by any other entity authorized by such county to prepare and mail such notification of violation.

(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.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the

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 be sent by first class mail to the court having jurisdiction.

(j) 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 (d) of section eleven hundred eleven of this article, provided that he or she sends to the 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 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 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 the violation of subdivision (d) of section eleven hundred eleven of this article 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

(l) Nothing in this section shall be construed to limit the liability

of an operator of a vehicle for any violation of subdivision (d) of section eleven hundred eleven of this article.

(m) When a county has established a demonstration program pursuant to this section, all fines and penalties collected under such program shall be distributed in accordance with subdivision thirteen of section eighteen hundred three of this chapter.

(n) Any county that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand twenty-four and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo

violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of disposition made for violations recorded by such systems which shall be provided at least annually to such county by the respective courts and bureaus conducting such adjudications;

8. the total amount of revenue realized by such county from such adjudications including a breakdown of revenue realized by such county for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such county in connection with the program; and

10. quality of the adjudication process and its results which shall be provided at least annually to such county by the respective courts and bureaus conducting such adjudications.

(o) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB There are 2 § 1111-g's

* NB Repealed December 1, 2027

*** § 1111-h. Owner liability for failure of operator to comply with traffic-control indications; town of Greenburgh.** (a) 1. Notwithstanding any other provision of law, the town of Greenburgh is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with

traffic-control indications in such town in accordance with the provisions of this section. Such demonstration program shall empower such town to install and operate traffic-control signal photo violation-monitoring devices at no more than two intersections within and under the jurisdiction of such town at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such town has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such town which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the town of Greenburgh in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs,

microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 town of Greenburgh, or by any other entity authorized by such town to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau or court having jurisdiction.

(j) 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 (d) of section eleven hundred eleven of this article, provided that he or she sends 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 traffic violations 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 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 the violation of subdivision (d) of section eleven hundred eleven of this article 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any town that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring

system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

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

8. the total amount of revenue realized by such town from such adjudications including a breakdown of revenue realized by such town for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such town in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article

pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2029

*** § 1111-i. Owner liability for failure of operator to comply with traffic-control indications; city of Peekskill.** (a) 1. Notwithstanding any other provision of law, the city of Peekskill is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower such city to install and operate traffic-control signal photo violation-monitoring devices at no more than nine intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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

(d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Peekskill in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if such city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

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 warning to advise the persons 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 Peekskill, or by any other entity authorized by such city to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that if such 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.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the

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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In such city 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 subdivision (d) of section eleven hundred eleven of this article, provided that such owner sends 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 subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In such city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

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

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2030

* NB There are 2 § 1111-i's

*** § 1111-i. Owner liability for failure of operator to comply with traffic-control indications; village of Croton-on-Hudson.** (a) 1. Notwithstanding any other provision of law, the village of Croton-on-Hudson is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such village in accordance with the provisions of this section. Such demonstration program shall empower such village to install and operate traffic-control signal photo violation-monitoring devices at no more than three intersections within and under the jurisdiction of such village at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a

vehicle, provided that such village has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such village which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the village of Croton-on-Hudson in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each

violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

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 warning to advise the persons 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 Croton-on-Hudson or by any other entity authorized by such village to prepare and mail such notification of violation.

(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 or, if there be none,

by the court having jurisdiction over traffic infractions.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau or court having jurisdiction.

(j) 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 (d) of section eleven hundred eleven of this article, provided that such owner sends 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 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 the violation of subdivision (d) of section eleven hundred eleven of this article 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any village that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring

system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems which shall be provided at least annually to such village by the respective courts and bureaus conducting such adjudications;

8. the total amount of revenue realized by such village from such adjudications including a breakdown of revenue realized by such village for each year since deployment of its traffic-control signal photo violation-monitoring system;

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

10. quality of the adjudication process and its results which shall be provided at least annually to such village by the respective courts and bureaus conducting such adjudications.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 31, 2030

* NB There are 2 § 1111-i's

*** § 1111-j. Owner liability for failure of operator to comply with**

traffic-control indications; city of Poughkeepsie. (a) 1. Notwithstanding any other provision of law, the city of Poughkeepsie is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower such city to install and operate traffic-control signal photo violation-monitoring devices at no more than nine intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Poughkeepsie in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if such city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

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 warning to advise the persons 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 Poughkeepsie, or by any other entity authorized by such city to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that if such 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.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In such city 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 subdivision (d) of section eleven hundred eleven of this article, provided that such owner sends 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 subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In such city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the

bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

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

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2031

* NB There are 4 § 1111-j's

*** § 1111-j. Owner liability for failure of operator to comply with traffic-control indications; city of Ithaca.** (a) 1. Notwithstanding any other provision of law, the city of Ithaca is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower such city to install and operate traffic-control signal photo violation-monitoring devices at no more than twelve intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such city which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information

obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Ithaca in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if such city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

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 warning to advise the persons 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 Ithaca, or by any other entity authorized by such city to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions, except that if such 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.

(i) If an owner receives a notice of liability pursuant to this

section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In such city 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 subdivision (d) of section eleven hundred eleven of this article, provided that such owner sends 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 subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In such city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (d) of

section eleven hundred eleven of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) 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 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

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

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

8. the total amount of revenue realized by such city from such adjudications including a breakdown of revenue realized by such city for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such city in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2030

* NB There are 4 § 1111-j's

*** § 1111-j. Owner liability for failure of operator to comply with traffic-control indications; town of Woodbury.** (a) 1. Notwithstanding any other provision of law, the town of Woodbury is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such town in accordance with the provisions of this section. Such demonstration program shall empower such town to install and operate traffic-control signal photo violation-monitoring devices at the intersection located at the intersection of state route thirty-two and Woodbury outlets boulevard north, upon approval in writing obtained by such town from the department of transportation, provided that the department of transportation may at any time rescind or modify such approval.

2. Such demonstration program shall utilize necessary technologies to

ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such town has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such town which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the town of Woodbury in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

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 warning to advise the persons 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 town of Woodbury or by any other entity authorized by such town to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau or court having jurisdiction.

(j) 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 (d) of section eleven hundred eleven of this article, provided that such owner sends 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 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 the violation of subdivision (d) of section eleven hundred eleven of this article 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any town that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the

traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems which shall be provided at least annually to such town by the respective courts and bureaus conducting such adjudications;

8. the total amount of revenue realized by such town from such adjudications including a breakdown of revenue realized by such town for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such town in connection with the program; and

10. quality of the adjudication process and its results which shall be provided at least annually to such town by the respective courts and bureaus conducting such adjudications.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 31, 2030
* NB There are 4 § 1111-j's

*** § 1111-j. Owner liability for failure of operator to comply with traffic-control indications; town of Palm Tree.** (a) 1. Notwithstanding any other provision of law, the town of Palm Tree is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such town in accordance with the provisions of this section. Such demonstration program shall empower such town to install and operate traffic-control signal photo violation-monitoring devices at two intersections, one located at the intersection of Forest road and Van Buren drive and another located at the intersection of Bakerstown road, Dinev road and Israel Zupnik drive, upon approval in writing obtained by such town from the department of transportation, provided that the department of transportation may at any time rescind or modify such approval.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo 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 a photograph or photographs allow for the identification of the contents of a vehicle, provided that such town has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such town which has adopted a local law or ordinance 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, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo 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 (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal 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 violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the town of Palm Tree in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo 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 be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (d) of section eleven hundred eleven of this article pursuant to this section. 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 (d) of section eleven hundred eleven 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 and the identification number of the camera which recorded the violation or other document locator number.

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 warning to advise the persons 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 town of Palm Tree or by any other entity authorized by such town to prepare and mail such notification of violation.

(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 or, if there be none, by the court having jurisdiction over traffic infractions.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the 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 (d) of section eleven hundred eleven of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau or court having jurisdiction.

(j) 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 (d) of section eleven hundred eleven of this article, provided that such owner sends 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 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 the violation of subdivision (d) of section eleven hundred eleven of this article 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 subdivision (d) of section eleven hundred eleven 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 failed to obey a traffic-control indication. 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 failed to obey a traffic-control indication.

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

(m) Any town that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system 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, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems which shall be provided at least annually to such town by the respective courts and bureaus conducting such adjudications;

8. the total amount of revenue realized by such town from such adjudications including a breakdown of revenue realized by such town for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such town in connection with the program; and

10. quality of the adjudication process and its results which shall be provided at least annually to such town by the respective courts and bureaus conducting such adjudications.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

* NB Repealed December 31, 2030

* NB There are 4 § 1111-j's

§ 1112. Pedestrian-control signal indications. Whenever pedestrians are controlled by pedestrian-control signals exhibiting the words "WALK" or "DON'T WALK", or exhibiting symbols of a walking person or upraised hand, such signals shall indicate and apply to pedestrians as follows:

(a) Steady WALK or walking person. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by other traffic.

(b) Flashing DON'T WALK or upraised hand. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrians who have partially completed their crossing on the WALK or walking person signal shall proceed to a sidewalk or safety island while the flashing DON'T WALK or upraised hand signal is showing.

(c) Steady DON'T WALK or upraised hand. No pedestrians shall start to cross the roadway in the direction of such signal, but any pedestrians who have partially completed their crossing on the WALK or flashing DON'T WALK signal shall proceed to a sidewalk or safety island while the steady DON'T WALK signal is showing.

§ 1113. Flashing signal indications. Whenever traffic is controlled by a flashing signal used in a traffic sign or signal, only the colors red and yellow shall be used, and said signals shall indicate and apply to drivers of vehicles as follows:

(a) Flashing red indications. Unless to make another movement permitted by other indications shown at the same time, vehicular traffic facing a circular red signal or red arrow with rapid intermittent flashes shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow indications. Vehicular traffic facing a circular yellow signal or yellow arrow with rapid intermittent flashes may proceed through the intersection or past such signal only with caution.

(c) Flashing red arrows and flashing yellow arrow indications have the same meaning as the corresponding flashing circular indications, except that they apply only to drivers of vehicles intending to make the movement indicated by the arrow.

(d) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in section eleven hundred seventy of this title.

§ 1114. Display of unauthorized signs, signals, or markings. (a) No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or

is an imitation of or resembles or is likely to be construed as an official traffic-control device or railroad sign or signal, or which attempts to direct or regulate the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(c) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and any police officer or public authority is hereby empowered to remove the same or cause it to be removed without notice.

§ 1115. Interference with official traffic-control devices, railroad signs or signals and other highway appurtenances. (a) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, cover, remove, or otherwise interfere with any official traffic-control device or any railroad sign or signal, or any inscription, shield, or insignia thereon, or any other part thereof; any bridge or similar structure; any monument, lamppost, telephone pole, fence, walk, curb, tree, rock cut or other appurtenance on a highway right of way.

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

1. to "deface" shall include, but not be limited to, to damage, destroy, disfigure, erase, ruin, distort, spoil or otherwise change the external appearance of an object by the use of chalk, crayon, paint, stain, ink or other similar material.

2. to "alter" a traffic-control signal shall include, but not be limited to, changing or attempting to change the signal indications of a traffic-control signal by use of a traffic-control signal preemption device.

3. "traffic-control signal preemption device" shall mean any device

designed or used to change or attempt to change the signal indications of a traffic-control signal.

(c) The presence in a vehicle of a traffic-control signal preemption device connected to a power source and in an operable condition is presumptive evidence of its use by any person operating such vehicle. Such presumption shall be rebutted by any credible and reliable evidence which tends to show that such device was not in use.

§ 1116. Lane-use control signal indications. Whenever traffic is controlled by lane-use control signal indications located over the individual lanes of a highway, only the colors green, yellow, white and red shall be used, and said signals shall indicate and apply as follows:

(a) Traffic facing a steady downward green arrow signal indication is permitted to drive in the lane over which the arrow signal indication is located.

(b) Traffic facing a steady yellow X signal indication shall prepare to vacate the lane over which the signal indication is located because a lane control change is being made to a steady red X signal indication.

(c) Traffic facing a steady white two-way left-turn arrow signal indication is permitted to use a lane over which the signal indication is located for a left turn, but not for through travel, with the understanding that common use of the lane by oncoming road users for left turns is also permitted.

(d) Traffic facing a steady white one way left-turn arrow signal indication is permitted to use a lane over which the signal indication is located for a left turn (without opposing turns in the same lane), but not for through travel.

(e) Traffic facing a steady red X signal shall not use the lane over which the signal indication is located and this signal indication shall modify accordingly the meaning of other traffic controls present.

§ 1117. Traffic-control signals; malfunction. Except when directed to proceed by a police officer, every operator of a motor vehicle approaching an intersection governed by a traffic-control signal which is out of service or otherwise malfunctioning shall stop in the manner

required for stop signs set forth in section eleven hundred seventy-two of this title, and proceed according to the rules of right of way for vehicles set forth in article twenty-six of this title.

ARTICLE 25

DRIVING ON RIGHT SIDE OF ROADWAY, OVERTAKING AND PASSING, ETC.

Section 1120. Drive on right side of roadway; exceptions.
1121. Passing vehicles proceeding in opposite directions.
1122. Overtaking a vehicle on the left.
1122-a. Overtaking a bicycle.
1123. When overtaking on the right is permitted.
1124. Limitations on overtaking on the left.
1125. Further limitations on driving to left of center of roadway.
1126. No-passing zones.
1127. One-way roadways and and circular intersections.
1128. Driving on roadways laned for traffic.
1129. Following too closely.
1130. Divided and controlled-access highways.
1131. Driving on shoulders and slopes.

§ 1120. Drive on right side of roadway; exceptions. (a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

2. When overtaking or passing bicyclists, pedestrians, animals or obstructions on the right half of the roadway;

3. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to

constitute an immediate hazard;

4. Where travel on the shoulder or slope is permitted by section eleven hundred thirty-one of this article;

5. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or

6. Upon a roadway restricted to one-way traffic.

(b) In addition, upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by signs or markings designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a) (2) hereof.

§ 1121. Passing vehicles proceeding in opposite directions. Drivers of vehicles proceeding in opposite direction shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

§ 1122. Overtaking a vehicle on the left. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

(a) The driver of a vehicle overtaking another vehicle proceeding in

the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

§ 1122-a. Overtaking a bicycle. The operator of a vehicle overtaking, from behind, a bicycle proceeding on the same side of a roadway shall pass to the left of such bicycle at a safe distance until safely clear thereof.

§ 1123. When overtaking on the right is permitted. (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction;

3. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the pavement or main-traveled portion of the roadway, except as permitted by section eleven hundred thirty-one of this article.

§ 1124. Limitations on overtaking on the left. No vehicle shall be

driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of this chapter and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching vehicle.

§ 1125. Further limitations on driving to left of center of roadway. (a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

2. When approaching within one hundred feet of or traversing any railroad grade crossing;

3. When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway nor to a vehicle in any lane which is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is marked to give notice of such allocation.

§ 1126. No-passing zones. (a) When official markings are in place indicating those portions of any highway where overtaking and passing or driving to the left of such markings would be especially hazardous, no driver of a vehicle proceeding along such highway shall at any time

drive on the left side of such markings.

(b) The foregoing limitations shall not apply to the driver of a vehicle turning left while entering or leaving such highway.

(c) Where a two-way left turn lane or a paved and clearly traversible dividing section separates the travel lanes for traffic proceeding in opposite directions, the foregoing limitation shall not apply to the driver of a vehicle traveling within such lane or section for such distance as is required for safety in preparing to turn left leaving such highway or in completing a left turn entering such highway.

§ 1127. One-way roadways and and circular intersections. (a) Upon a roadway designated and signposted for one-way traffic, a vehicle shall be driven only in the direction designated.

(b) A vehicle passing around a circular intersection shall be driven only to the right of the island unless otherwise indicated by traffic control devices.

§ 1128. Driving on roadways laned for traffic. Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

(c) When official traffic-control devices direct slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane or designate those lanes to be used by traffic moving in a particular

direction regardless of the center of the roadway, drivers of vehicles shall obey the directions of every such sign, signal or marking.

(d) When official markings are in place indicating those portions of any roadway where crossing such markings would be especially hazardous, no driver of a vehicle proceeding along such highway shall at any time drive across such markings.

§ 1129. Following too closely. (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

§ 1130. Divided and controlled-access highways. 1. Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle shall be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or

intersection, as established, unless specifically authorized by public authority.

2. No person shall drive a motor vehicle or motorcycle onto or from any controlled-access highway except at the established entrances and exits thereof unless directed or permitted to use another entrance or exit by official traffic-control devices or police officers.

§ 1131. Driving on shoulders and slopes. Except for bicycles and those classes of vehicles required to travel on shoulders or slopes, no motor vehicle shall be driven over, across, along, or within any shoulder or slope of any state controlled-access highway except at a location specifically authorized and posted by the department of transportation. The foregoing limitation shall not prevent tow trucks from using shoulders or slopes in as limited and incidental a manner as practicable when dispatched to the scene of an accident by a law enforcement agency or an authority, department or agency having jurisdiction over such controlled-access highway and all lanes are obstructed by traffic, provided, however, that the foregoing shall not relieve the driver of a tow truck from the duty to drive with due regard for the safety of all persons nor shall such provision protect the tow truck driver from the consequences of his or her reckless disregard for the safety of others and shall at all times operate such tow truck in compliance with all standards of care imposed to prevent those injuries or damages to persons or property of another which may result from the operator's negligence, recklessness or intentional misconduct, nor shall it prevent motor vehicles from using shoulders or slopes when directed by police officers or flagpersons, nor does it prevent motor vehicles from stopping, standing, or parking on shoulders or slopes where such stopping, standing, or parking is lawful.

ARTICLE 26

RIGHT OF WAY

Section 1140. Vehicle approaching or entering intersection.
1141. Vehicle turning left.

1142. Vehicle entering stop or yield intersection.
1143. Vehicle entering roadway.
1144. Operation of vehicles on approach of authorized emergency vehicles.
1144-a. Operation of vehicles when approaching a parked, stopped or standing authorized emergency vehicle or hazard vehicle or vehicle displaying a blue or green light.
1145. Vehicle approaching rotary traffic circle or island.
1146. Drivers to exercise due care.
1146-a. Approaching horses.

§ 1140. Vehicle approaching or entering intersection. (a) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway.

(b) When two vehicles enter an intersection from different highways at approximately the same time the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(c) The right of way rules declared in subsections (a) and (b) are modified at through highways and otherwise as stated in this title.

§ 1141. Vehicle turning left. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close as to constitute an immediate hazard.

§ 1142. Vehicle entering stop or yield intersection. (a) Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop as required by section eleven hundred seventy-two and after having stopped shall yield the right of way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(b) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for existing conditions, or shall stop if necessary as provided in section eleven hundred seventy-two, and shall yield the right of way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. Provided, however, that if such driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right of way.

§ 1143. Vehicle entering roadway. The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right of way to all vehicles approaching on the roadway to be entered or crossed.

§ 1144. Operation of vehicles on approach of authorized emergency vehicles. (a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle other than a police vehicle or bicycle when operated as an authorized emergency vehicle, and when audible signals are sounded from any said vehicle by siren, exhaust whistle, bell, air-horn or electronic equivalent; the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to the right-hand edge or curb of the roadway, or to either edge of a one-way roadway three or more lanes in width, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, unless otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with reasonable care for all persons using the highway.

§ 1144-a. Operation of vehicles when approaching a parked, stopped or standing authorized emergency vehicle, hazard vehicle, vehicle displaying a blue or green light or certain other motor vehicles. (a) Every operator of a motor vehicle shall exercise due care to avoid colliding with an authorized emergency vehicle which is parked, stopped or standing on the shoulder or any portion of such highway and such authorized emergency vehicle is displaying one or more red or combination red and white lights pursuant to the provisions of paragraph two of subdivision forty-one of section three hundred seventy-five of this chapter or is displaying one or more blue, combination blue and red or combination blue, red and white lights pursuant to the provisions of subparagraph b of paragraph four of subdivision forty-one of section three hundred seventy-five of this chapter. For operators of motor vehicles on parkways or controlled access highways, such due care shall include, but not be limited to, moving from a lane which contains or is immediately adjacent to the shoulder where such authorized emergency vehicle displaying one or more red, blue or white or any combination of red and white lights or blue or combination blue and red or combination blue, red and white lights pursuant to the provisions of paragraph two or subparagraph b of paragraph four, as applicable of subdivision forty-one of section three hundred seventy-five of this chapter is parked, stopped or standing to another lane, provided that such movement otherwise complies with the requirements of this chapter including, but not limited to, the provisions of sections eleven hundred ten of this title and eleven hundred twenty-eight of this title.

(b) Every operator of a motor vehicle shall exercise due care to avoid colliding with a hazard vehicle which is parked, stopped or standing on the shoulder or on any portion of such highway and such hazard vehicle is displaying one or more amber lights pursuant to the provisions of paragraph three of subdivision forty-one of section three hundred seventy-five of this chapter or, if such hazard vehicle is designed for the towing or pushing of disabled vehicles such hazard vehicle is displaying one or more amber lights or one or more blue or combination blue and amber lights pursuant to the provisions of paragraph three or subparagraph b-1 of paragraph four, as applicable, of subdivision

forty-one of section three hundred seventy-five of this chapter or, if such hazard vehicle owned and operated by the state or by a county, city, town or village is designed for the removal of ice and snow such hazard vehicle is displaying one or more amber lights or one or more green or combination green and amber lights pursuant to the provisions of paragraph three or subparagraph (c) of paragraph five, as applicable, of subdivision forty-one of section three hundred seventy-five of this chapter. For operators of motor vehicles on parkways or controlled access highways, such due care shall include, but not be limited to, moving from a lane which contains or is immediately adjacent to the shoulder where (i) such hazard vehicle displaying one or more amber lights pursuant to the provisions of paragraph three of subdivision forty-one of section three hundred seventy-five of this chapter or (ii) such hazard vehicle designed for the towing or pushing of disabled vehicles displaying one or more amber lights or one or more blue or combination blue and amber lights pursuant to the provisions of paragraph three or subparagraph b-1 of paragraph four, as applicable, of subdivision forty-one of section three hundred seventy-five of this chapter or (iii) such hazard vehicle owned and operated by the state or by a county, city, town or village is displaying one or more amber lights or one or more green or combination green and amber lights pursuant to the provisions of paragraph three or subparagraph (c) of paragraph five, as applicable, of subdivision forty-one of section three hundred seventy-five of this chapter, is parked, stopped or standing to another lane, provided that such movement otherwise complies with the requirements of this chapter including, but not limited to, the provisions of sections eleven hundred ten and eleven hundred twenty-eight of this title.

(c) Every operator of a motor vehicle shall exercise due care to avoid colliding with a vehicle displaying a blue light pursuant to the provisions of paragraph four or a green light pursuant to the provisions of paragraph five of subdivision forty-one of section three hundred seventy-five of this chapter which is parked, stopped or standing on the shoulder or any portion of such highway. For operators of motor vehicles on parkways or controlled access highways, such due care shall include, but not be limited to, moving from a lane which contains or is immediately adjacent to the shoulder where such vehicle displaying a

blue light pursuant to the provisions of paragraph four or a green light pursuant to the provisions of paragraph five of subdivision forty-one of section three hundred seventy-five of this chapter is parked, stopped or standing to another lane, provided that such movement otherwise complies with the requirements of this chapter including, but not limited to, the provisions of sections eleven hundred ten and eleven hundred twenty-eight of this title.

(d) Every operator of a motor vehicle on a parkway and on a controlled-access highway shall exercise due care to avoid colliding with a motor vehicle which is parked, stopped or standing on the shoulder or any portion of such parkway or controlled-access highway. For the purposes of this subdivision, such due care shall include, but not be limited to, moving from a lane which contains or is immediately adjacent to the shoulder where such motor vehicle is parked, stopped or standing to another lane, provided that such movement otherwise complies with the requirements of this chapter including, but not limited to, the provisions of sections eleven hundred ten and eleven hundred twenty-eight of this title.

§ 1145. Vehicle approaching rotary traffic circle or island. Except where a traffic control device directs otherwise, the driver of a vehicle approaching or about to enter a rotary traffic circle or island shall yield the right of way to any vehicle already traveling on such circle or around such island.

§ 1146. Drivers to exercise due care. (a) Notwithstanding the provisions of any other law to the contrary, every driver of a vehicle shall exercise due care to avoid colliding with any bicyclist, pedestrian, or domestic animal upon any roadway and shall give warning by sounding the horn when necessary. For the purposes of this section, the term "domestic animal" shall mean domesticated sheep, cattle, and goats which are under the supervision and control of a pedestrian.

(b) 1. A driver of a motor vehicle who causes physical injury as defined in article ten of the penal law to a pedestrian or bicyclist while failing to exercise due care in violation of subdivision (a) of

this section, shall be guilty of a traffic infraction punishable by a fine of not more than five hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment.

2. If such driver of a motor vehicle causes physical injury while failing to exercise due care in violation of subdivision (a) of this section, then there shall be a rebuttable presumption that, as a result of such failure to exercise due care, such person operated the motor vehicle in a manner that caused such physical injury.

(c) 1. A driver of a motor vehicle who causes serious physical injury as defined in article ten of the penal law to a pedestrian or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than fifteen days or by required participation in a motor vehicle accident prevention course pursuant to paragraph (e-1) of subdivision two of section 65.10 of the penal law or by any combination of such fine, imprisonment or course, and by suspension of a license or registration pursuant to subparagraph (xiv) or (xv) of paragraph b of subdivision two of section five hundred ten of this chapter.

2. If such driver of a motor vehicle causes serious physical injury while failing to exercise due care in violation of subdivision (a) of this section, then there shall be a rebuttable presumption that, as a result of such failure to exercise due care, such person operated the motor vehicle in a manner that caused such serious physical injury.

(d) A violation of subdivision (b) or (c) of this section committed by a person who has previously been convicted of any violation of such subdivisions within the preceding five years, shall constitute a class B misdemeanor punishable by a fine of not more than one thousand dollars in addition to any other penalties provided by law.

(e) Nothing contained in this section shall prevent the court from imposing any other authorized disposition, including a period of community service.

§ 1146-a. Approaching horses. 1. Notwithstanding the provisions of any

other law to the contrary, every driver of a vehicle shall exercise due care to avoid colliding with any horse being ridden or led along a public highway.

2. Every driver of a vehicle shall approach a horse being ridden or led along a public highway at a reasonable and prudent speed so as to avoid frightening such horse and shall pass the horse at a reasonable distance.

3. No driver of a vehicle shall sound the horn when approaching or passing a horse on a public highway.

ARTICLE 27
PEDESTRIANS' RIGHTS AND DUTIES

Section 1150. Pedestrians subject to traffic regulations.
1151. Pedestrians' right of way in crosswalks.
1151-a. Pedestrians' right of way on sidewalks.
1152. Crossing at other than crosswalks.
1153. Provisions relating to blind or visually impaired persons.
1155. Pedestrians to use right half of crosswalks.
1156. Pedestrians on roadways.
1157. Pedestrians soliciting rides, or business.

§ 1150. Pedestrians subject to traffic regulations. Pedestrians shall be subject to traffic-control signals as provided in section eleven hundred eleven of this title, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article.

§ 1151. Pedestrians' right of way in crosswalks. (a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a

crosswalk on the roadway upon which the vehicle is traveling, except that any pedestrian crossing a roadway at a point where a pedestrian tunnel or overpass has been provided shall yield the right of way to all vehicles.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impractical for the driver to yield.

(c) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

§ 1151-a. Pedestrians' right of way on sidewalks. The driver of a vehicle emerging from or entering an alleyway, building, private road or driveway shall yield the right of way to any pedestrian approaching on any sidewalk extending across such alleyway, building entrance, road or driveway.

§ 1152. Crossing at other than crosswalks. (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

(c) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

§ 1153. Provisions relating to blind or visually impaired persons. (a) Notwithstanding the foregoing provisions of this article every driver of a vehicle approaching an intersection or crosswalk shall yield the right of way to a pedestrian crossing or attempting to cross the

roadway when such pedestrian is accompanied by a guide dog or using a cane which is metallic or white in color or white with a red tip.

(b) No person, unless blind or visually impaired, shall use on any street or highway a cane which is metallic or white in color or white with a red tip.

(c) This section shall not be construed as making obligatory the employment of the use of a guide dog or of a cane or walking stick of any kind by a person blind or visually impaired.

§ 1155. Pedestrians to use right half of crosswalks. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

§ 1156. Pedestrians on roadways. (a) Where sidewalks are provided and they may be used with safety it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. Upon the approach of any vehicle from the opposite direction, such pedestrian shall move as far to the left as is practicable.

§ 1157. Pedestrians soliciting rides, or business. (a) No person shall stand in a roadway for the purpose of soliciting a ride, or to solicit from or sell to an occupant of any vehicle.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(c) No person shall occupy any part of a state highway, except in a city or village, in any manner for the purpose of selling or soliciting.

ARTICLE 28

TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

Section 1160. Required position and method of turning at intersections.
1161. U turns in certain areas prohibited.
1162. Starting parked vehicle.
1163. Turning movements and required signals.
1164. Signals by hand and arm or signal lamps.
1165. Method of giving hand-and-arm signals.
1166. Required position for turning at alley, driveway, private road or onto property off the roadway.

§ 1160. Required position and method of turning at intersections. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway or, where travel on the shoulder or slope has been authorized, from the shoulder or slope.

(b) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(c) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane of the roadway lawfully available to traffic moving in the direction of travel of such vehicle or, where travel on the shoulder or slope has been authorized, from the shoulder or slope, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being

entered.

(d) When markers, buttons, signs, or other markings are placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, signs, or other markings.

(e) U-turns. U-turns shall be made from and to that portion of the highway nearest the marked center line. Where more than one lane of a highway has been designated for left turns, U-turns shall be made only from the lane so designated that is adjacent to the marked center line.

§ 1161. U turns in certain areas prohibited. a. No motor vehicle shall make a U turn upon any curve, or upon the approach to, or near the crest of a grade, where such motor vehicle cannot be seen by the driver of any other motor vehicle approaching from either direction within five hundred feet.

b. No motor vehicle shall make a U turn within a school zone. For the purposes of this subdivision, the term "school zone" shall mean the distance along a highway passing a school building, entrance or exit of a school abutting on the highway for which a school sign (S1-1) has been posted pursuant to this chapter and in compliance with the manual on uniform traffic control devices maintained pursuant to section sixteen hundred eighty of this chapter.

c. No altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver shall make a U-turn upon any public highway or private road open to public motor vehicle traffic. Every person convicted of a violation of this subdivision shall: for a first conviction thereof, be punished by a fine of not less than two hundred fifty dollars nor more than four hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second or subsequent violation, both of which were committed within a period of eighteen months, such person shall be

punished by a fine of not less than six hundred dollars nor more than seven hundred fifty dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment. A violation of this subdivision wherein the violator is operating such altered motor vehicle and such altered motor vehicle is carrying at least one passenger other than the driver shall be punishable by a fine of not less than seven hundred fifty dollars nor more than one thousand dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment.

§ 1162. Starting parked vehicle. No person shall move a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

§ 1163. Turning movements and required signals. (a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section eleven hundred sixty, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) The signals provided for in section eleven hundred sixty-four shall be used to indicate an intention to turn, change lanes, or start from a parked position and not be flashed on one side only on a parked or disabled vehicle, or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear.

(e) The driver of a vehicle equipped with simultaneously flashing

signals as provided for in subdivision eighteen-a of section three hundred seventy-five shall use such signals when the vehicle is stopped or disabled on a public highway, except when such vehicle is stopped in compliance with a traffic-control device or when legally parked. The driver of a vehicle so equipped may use such signals whenever necessary to warn the operators of following vehicles of the presence of a traffic hazard ahead of the signaling vehicle, or to warn the operators of other vehicles that the signaling vehicle may itself constitute a traffic hazard, taking into account traffic and highway conditions. No person shall use such signals for any other purpose.

§ 1164. Signals by hand and arm or signal lamps. (a) Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection (b).

(b) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles. On a combination of vehicles, the rear signal lamps shall be at the rear of the last vehicle in the combination. The provisions of this subdivision shall not apply to a vehicle, alone or in combination with other vehicles or implements, if such vehicle is used solely for agricultural purposes, and is not designed and intended primarily for use on the highway, or to fire vehicles, or to special purpose commercial motor vehicles registered under schedule F of subdivision seven of section four hundred one of this chapter.

§ 1165. Method of giving hand-and-arm signals. All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1. Left turn. Hand and arm extended horizontally.

2. Right turn. Hand and arm extended upward.

3. Stop or decrease speed. Hand and arm extended downward.

§ 1166. Required position for turning at alley, driveway, private road or onto property off the roadway. The driver of a vehicle intending to turn from a roadway into an alley, driveway, private road or onto property off the roadway, shall approach the turn as follows:

(a) Right turns. The approach for a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Left turns from two-way roadways. The approach for a left turn from a two-way roadway shall be made in that portion of the right half of the roadway nearest the center thereof.

(c) Left turns from other than two-way roadways. The approach for a left turn from a roadway on which traffic is restricted to one direction shall be made in the extreme left-hand lane lawfully available to traffic.

ARTICLE 29

SPECIAL STOPS REQUIRED

Section 1170. Obedience to signal indicating approach of train.

1171. Certain vehicles must stop at all railroad grade crossings.

1172. Stop signs and yield signs.

1173. Emerging from alley, driveway, private road or building.

1174. Overtaking and passing school bus.

1174-a. Owner liability for failure of operator to stop for a school bus displaying a red visual signal and stop-arm.

1175. Obstructing traffic at intersection.

1176. Obstructing highway-railroad grade crossings.

§ 1170. Obedience to signal indicating approach of train. (a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. An audible or clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

3. A railroad train approaching within approximately one thousand five hundred feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or

4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

5. Every person convicted of a violation of this subdivision shall for a first conviction thereof be punished by a fine of not more than one hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or

barrier is closed or is being opened or closed. Every person convicted of a violation of this subdivision shall for a first conviction thereof be punished by a fine of not less than two hundred fifty dollars nor more than four hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of thirty months, such person shall be punished by a fine of not less than three hundred fifty dollars nor more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of thirty months, such person shall be punished by a fine of not less than six hundred dollars nor more than one thousand dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment.

(c) 1. Any person convicted of a violation of this section while driving any vehicle carrying passengers under eighteen years of age, any bus carrying passengers, any school bus or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall, upon conviction of a first offense, be guilty of a class A misdemeanor, and shall, upon conviction of a second or subsequent offense committed within five years of the prior offense, be guilty of a class E felony.

2. Any person convicted of a violation of this section resulting in an accident which causes physical injury, as that term is defined pursuant to subdivision nine of section 10.00 of the penal law, serious physical injury, as that term is defined pursuant to subdivision ten of section 10.00 of the penal law, or death to another person, shall be guilty of a class E felony.

(d) Nothing contained in this section shall be construed to prohibit or limit the prosecution of any violation, crime or other offense otherwise required or permitted by law.

§ 1171. Certain vehicles must stop at all railroad grade crossings. (a) The driver of any bus carrying passengers, of any school bus, of any motor vehicle with a gross vehicle weight rating of greater than ten

thousand pounds that transports division 2.3 chlorine or is a cargo tank, whether loaded or empty, used to transport hazardous materials, as defined in section five hundred one-a of this chapter, of any motor vehicle required to be marked or placarded by either the United States department of transportation or the New York state department of transportation regulations or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, of any crawler-type tractor, steam shovel, derrick, roller, or of any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

(b) No stop need be made at any such crossing where a police officer or a traffic-control signal or sign directs traffic to proceed.

(c) Every motor vehicle used in commerce with a gross vehicle weight rating of greater than ten thousand pounds not subject to the requirements of subdivision (a) of this section: (i) shall upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said motor vehicle to be stopped before reaching the nearest rail of such crossing, and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear; and (ii) shall stop at such crossing if the course is not clear.

(d) In addition to the requirements of subdivisions (a) and (c) of this section, the driver of a commercial vehicle must check street-railway grade crossings within a business or residence district.

(e) Notwithstanding any other provision of law, every operator of a commercial motor vehicle shall obey a traffic control device or the directions of a police officer at a railroad grade crossing.

(f) Every person convicted of a violation of this section shall for a first conviction thereof be punished by a fine of not more than one hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of thirty months, such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of thirty months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

§ 1172. Stop signs and yield signs. (a) Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and the right to proceed shall be subject to the provisions of section eleven hundred forty-two.

(b) The driver of a vehicle approaching a yield sign if required for safety to stop shall stop at a clearly marked yield line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and the right to proceed shall be subject to the provisions of section eleven hundred forty-two of this title.

§ 1173. Emerging from alley, driveway, private road or building. The

driver of a vehicle emerging from an alley, driveway, private road or building shall stop such vehicle immediately prior to driving onto a sidewalk extending across any alleyway, building entrance, road or driveway, or in the event there is no sidewalk, shall stop at the point nearest the roadway to be entered where the driver has a view of approaching traffic thereon.

§ 1174. Overtaking and passing school bus. (a) The driver of a vehicle upon a public highway, street or private road upon meeting or overtaking from either direction any school bus marked and equipped as provided in subdivision twenty of section three hundred seventy-five of this chapter which has stopped on the public highway, street or private road for the purpose of receiving or discharging any passengers, or which has stopped because a school bus in front of it has stopped to receive or discharge any passengers, shall stop the vehicle before reaching such school bus when there is in operation on said school bus a red visual signal as specified in subdivision twenty of section three hundred seventy-five of this chapter and said driver shall not proceed until such school bus resumes motion, or until signaled by the driver or a police officer to proceed. For the purposes of this section, and in addition to the provisions of section one hundred thirty-four of this chapter, the term "public highway" shall mean any area used for the parking of motor vehicles or used as a driveway located on the grounds of a school or of a board of cooperative educational services facility or any area used as a means of access to and egress from such school or facility.

(b) The driver of such school bus, when receiving or discharging passengers who must cross a public highway, street or private road, shall instruct such passengers to cross in front of the bus and the driver thereof shall keep such school bus halted with red signal lights flashing until such passengers have reached the opposite side of such highway, street or private road. Whether such passengers are crossing such highway street or private road or discharging to the same side of such highway, street or private road, the driver of such bus shall keep such school bus halted with red signal lights flashing until such passengers are at least fifteen feet from the bus and either off the highway, street or private road or on a sidewalk.

(c) Every person convicted of a violation of subdivision (a) of this section shall: for a first conviction thereof, be punished by a fine of not less than two hundred fifty dollars nor more than four hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of three years, such person shall be punished by a fine of not less than six hundred dollars nor more than seven hundred fifty dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of three years, such person shall be punished by a fine of not less than seven hundred fifty dollars nor more than one thousand five hundred dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment.

(d) For the purposes of this section, the term "passengers" shall mean those persons designated in paragraph (d) of subdivision twenty of section three hundred seventy-five of this chapter.

*** § 1174-a. Owner liability for failure of operator to stop for a school bus displaying a red visual signal and stop-arm.** (a) 1. Notwithstanding any other provision of law, a county, city, town or village located within a school district ("district") is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with subdivision (a) of section eleven hundred seventy-four of this article when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter and operated in such county, city, town or village, in accordance with the provisions of this section. Such demonstration program shall empower such county, city, town or village to install and operate school bus photo violation monitoring systems which may be stationary or mobile, and which may be installed, pursuant to an agreement with a school district within such county, city, town or village, on school buses owned and operated by such school district or privately owned and operated for compensation under contract with such

district. Provided, however, that (a) no stationary school bus photo violation monitoring system shall be installed or operated by a county, city, town or village except on roadways under the jurisdiction of such county, city, town or village, and (b) no mobile school bus photo violation monitoring system shall be installed or operated on any such school buses unless such county, city, town or village and such district enter into an agreement for such installation and operation.

1-a. Any county, city, town or village, located within a school district, that has adopted a local law or ordinance pursuant to this section establishing a demonstration program imposing liability on the owner of a vehicle for failure of an operator thereof to comply with subdivision (a) of section eleven hundred seventy-four of this article when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter and operated in such county, city, town or village may enter into an agreement with the applicable school district for the installation, maintenance and use of school bus photo violation monitoring systems on school buses pursuant to this section and section twenty-two of the chapter of the laws of two thousand nineteen which added this section, for the proper handling and custody of photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the applicable county, city, town or village. Any agreement entered into hereunder shall be approved by each participating county, city, town or village by a majority vote of the voting strength of its governing body and by resolution of the district pursuant to section sixteen hundred four, section seventeen hundred nine, section twenty-five hundred three, section twenty-five hundred fifty-four or section twenty-five hundred ninety-h of the education law, as applicable. Provided, however, that where a district has entered an agreement as provided hereunder with a county, no cities, towns or villages within the same county may enter into, or be a party to, any agreement with such district pursuant to this section. Provided further, however, that no county shall enter an agreement with any city school district wholly contained within a city. Nothing in this section shall be construed to prevent a county, city,

town, village or district at any time to withdraw from or terminate an agreement entered pursuant to this section and section twenty-two of chapter one hundred forty-five of the laws of two thousand nineteen which added this section.

1-b. The total cost to the district of the installation, maintenance and use of school bus photo violation monitoring systems pursuant to this section shall be borne entirely by the county, city, town or village within the district which is a party to such agreement. On or before September first of each year, the district shall determine and certify to each county, city, town or village with which it has entered into an agreement pursuant to this section the total cost to the district for the school year ending the preceding June thirtieth of installing, maintaining and using such systems within each such county, city, town or village, respectively, for the proper handling and custody of photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the applicable county, city, town or village. On or before the following December first of each year, each such county, city, town or village shall pay to the district such cost so certified to it on or before the preceding September first. Not later than twenty days after each such payment is submitted or is due, whichever occurs first, the district shall submit to the director of the budget and the chairpersons of the fiscal committees of the legislature a report for each such county, city, town and village showing the amount of costs so certified and the amount of payments so received or due. If a county, city, town or village fails to make the payment required to the district by the twentieth day after the date such payment was due, (i) the district shall notify the director of the budget and the chairpersons of the fiscal committees of the legislature of such occurrence within twenty-four hours of such day; and (ii) the demonstration program shall be suspended within such county, city, town, or village until such time as such county, city, town, or village makes the payment required to the district. The district shall notify the director of the budget and the chairpersons of the fiscal committees of the legislature of such payment within seven business days of its receipt. Provided, however, that any

notice of liability issued prior to such date shall not be voided.

2. Any image or images captured by school bus photo violation monitoring systems shall be inadmissible in any disciplinary proceeding convened by any school district or any school bus contractor thereof, and any proceeding initiated by the department involving licensure privileges of school bus operators. Any school bus photo violation monitoring device mounted on a school bus shall be directed outwardly from such school bus to capture images of vehicles operated in violation of subdivision (a) of section eleven hundred seventy-four of this article, and images produced by such device shall not be used for any other purpose.

3. (i) Any participating school district shall be prohibited from accessing any photographs, microphotographs, videotapes, other recorded images or data from school bus photo violation monitoring systems but shall provide, pursuant to an agreement with a county, city, town or village as provided in this section, for the proper handling and custody of such photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the applicable county, city, town or village for the purpose of determining whether a motor vehicle was operated in violation of subdivision (a) of section eleven hundred seventy-four of this title and imposing monetary liability on the owner of such motor vehicle therefor.

(ii) Photographs, microphotographs, videotapes, other recorded images and data produced by school bus photo violation monitoring systems shall be destroyed (A) ninety days after the date of the alleged imposition of liability if a notice of liability is not issued for such alleged imposition of liability pursuant to this section or (B) upon final disposition of a notice of liability issued pursuant to this section.

4. A county, city, town or village establishing a demonstration program pursuant to this section shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a school bus photo violation monitoring device. Such measures shall include:

(i) utilization of necessary technologies to ensure, to the extent practicable, that photographs produced by such school bus photo violation monitoring systems shall not include images that identify the driver, the passengers, the contents of the vehicle, pedestrians and cyclists. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the contents of a vehicle, provided that such county, city, town or village has made a reasonable effort to comply with the provisions of this paragraph;

(ii) a prohibition on the use or dissemination of vehicles' license plate information and other information and images captured by school bus photo violation monitoring systems except: (A) as required to establish liability under this section or collect payment of penalties; (B) as required by court order; or (C) as otherwise required by law;

(iii) the installation of signage in conformance with standards established in the MUTCD at each roadway entrance of the jurisdictional boundaries of such county, city, town or village giving notice that school bus photo violation monitoring systems are used to enforce restrictions on vehicles violating subdivision (a) of section eleven hundred seventy-four of this article. For the purposes of this paragraph, the term "roadway" shall not include state expressway routes or state interstate routes but shall include controlled-access highway exit ramps that enter the jurisdictional boundaries of a county, city, town or village; and

(iv) oversight procedures to ensure compliance with the aforementioned privacy protection measures.

(b) In any such county, city, town or village which has adopted a local law or ordinance 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, in violation of subdivision (a) of section eleven hundred seventy-four of this article, and such violation is evidenced by information obtained from a school bus photo 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 (a) of section eleven hundred seventy-four of this article.

(c) For purposes of this section, the following terms shall have the following meanings: "county" shall have the meaning provided in section three of the county law, except that such term shall not include any county wholly contained within a city; "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; "owner" shall have the meaning provided in article two-B of this chapter; and "school bus photo violation monitoring system" shall mean a device that is capable of operating independently of an enforcement officer which is installed to work in conjunction with a school bus stop-arm and which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of a vehicle at the time it is used or operated in violation of subdivision (a) of section eleven hundred seventy-four of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the county, city, town or village in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a school bus photo violation monitoring system, and other documents or declarations pertaining to inspections by the department of transportation, shall be prima facie evidence of the facts contained therein. Such certificate, or a facsimile thereof, shall provide the identification number of the school bus photo violation monitoring system which recorded the violation, a statement confirming that at the time such violation was recorded by such school bus photo violation monitoring system, such school bus photo violation monitoring system was installed on a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter as evidenced by a valid certificate of inspection issued to such school bus by the department of transportation pursuant to section one hundred forty of the transportation law and the safety rules and regulations promulgated thereunder, and the registration number of the school bus to which such school bus photo violation monitoring system was attached. Any photographs, microphotographs, videotape or other recorded images evidencing such a

violation shall include a recorded image of the outside of the motor vehicle involved in such violation, the registration number of such vehicle, at least one activated school bus stop-arm, and an electronic indicator or indicators showing the activation of the flashing red signal lamps of the school bus to which the school bus photo violation monitoring system producing such photographs, microphotographs, videotape or other recorded images was installed at the time such violation occurred, and shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section. Where recorded images from a school bus photo violation monitoring system attached to a school bus, as certified pursuant to this subdivision, show the activation of at least one school bus stop-arm and an electronic indicator or indicators as required pursuant to this subdivision, there shall be a rebuttable presumption that such school bus was stopped for the purpose of receiving or discharging any passengers or because a school bus in front of it had stopped to receive or discharge any passengers. A certificate, sworn to or affirmed by a technician employed by the county, city, town or village in which the charged violation occurred, or a facsimile thereof, after reviewing evidence that on the day the charged violation occurred such school bus had a valid certificate of inspection issued by the department of transportation pursuant to section one hundred forty of the transportation law and the safety rules and regulations promulgated thereunder, shall be prima facie evidence that such school bus was marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter and the flashing red signal lamp of such school bus was in operation at the time the violation occurred.

(e) An owner liable for a violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that if a city by local law has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such parking violations bureau and except if a county, city, village, or town has authorized the adjudication of such owner liability by a traffic camera

violations bureau, such schedule shall be promulgated by such traffic camera violations bureau. The liability of the owner pursuant to this section shall be two hundred fifty dollars for a first violation, two hundred seventy-five dollars for a second violation both of which were committed within a period of eighteen months, and three hundred dollars for a third or subsequent violation all of which were committed within a period of eighteen months; provided, however, that such local law or ordinance 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 a local law or ordinance adopted 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 (a) of section eleven hundred seventy-four of this article pursuant to this section. 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 (a) of section eleven hundred seventy-four 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 school bus photo violation monitoring system which recorded the violation or other document locator number, and the registration number of the school bus on which the school bus photo violation monitoring system which recorded the violation was installed.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons 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 county, city, town or village in which the violation occurred, or by any other entity authorized by such county, city, town or village to prepare and mail such notification of violation.

(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, and except that if a county, city, village, or town has established a traffic camera violations bureau to hear and determine the liability imposed upon owners by this section, adjudication of such liability shall be by such traffic camera violations bureau.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to this section that the 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 be sent by first class mail to the traffic violations bureau, court having jurisdiction, parking violations bureau, or traffic camera violations bureau.

(j) 1. In such county, city, town or village where the adjudication of liability imposed upon owners pursuant to this section is by a traffic violations bureau, a court having jurisdiction, or a traffic camera violations bureau 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 (a) of section eleven hundred seventy-four of this article, provided that such lessor sends to the traffic violations bureau, court having jurisdiction or traffic camera violations bureau 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, court or traffic camera violations bureau 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 subdivision (a) of section eleven hundred seventy-four of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In a city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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 (a) of section eleven hundred seventy-four of this article, provided that:

(A) 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

(B) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this

paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) 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 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 subdivision (a) of section eleven hundred seventy-four 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 failed to comply with subdivision (a) of section eleven hundred seventy-four 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 failed to comply with subdivision (a) of section eleven hundred seventy-four of this article.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (a) of section eleven hundred seventy-four of this article.

(m) In any such county, city, town or village which adopts a demonstration program pursuant to subdivision (a) of this section, such county, city, town or village shall submit an annual report on the results of the use of a school bus photo violation monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand nineteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. the number of buses and a description of the routes where

stationary and mobile school bus photo violation monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at locations where a school bus photo violation monitoring system is used for the year preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at locations where a school bus photo violation monitoring system is used, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of violations recorded at each location where a school bus photo violation monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

4-a. the number of convictions for violations of subdivision (a) of section eleven hundred seventy-four of this article recorded at each location where a school bus photo violation monitoring system is used on an annual basis, to the extent the information is maintained by the department of motor vehicles of this state;

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

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

7. the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems which shall be provided at least annually to such county, city, town or village by the respective courts, bureaus and agencies conducting such adjudications;

8. the total amount of revenue realized by such county, city, town or

village from such adjudications;

9. the expenses incurred by such county, city, town or village in connection with the program;

10. the quality of the adjudication process and its results including the total number of hearings scheduled, re-scheduled, and held; the total number of persons scheduled for such hearings; the total number of cases where fines were paid on or before the hearing date; and the total number of default judgments entered. Such information shall be provided at least annually to such county, city, town or village by the respective courts, bureaus and agencies conducting such adjudications; and

11. a description of public education activities conducted to warn motorists of the dangers of overtaking and passing stopped school buses.

(n) It shall be a defense to any prosecution for a violation of subdivision (a) of section eleven hundred seventy-four of this article pursuant to a local law or ordinance adopted pursuant to this section that such school bus stop-arms were malfunctioning at the time of the alleged violation.

* NB Repealed December 1, 2029

§ 1175. Obstructing traffic at intersection. When vehicular traffic is stopped on the opposite side of an intersection, no person shall drive a vehicle into such intersection, except when making a turn unless there is adequate space on the opposite side of the intersection to accommodate the vehicle he is driving notwithstanding the indication of a traffic control signal which would permit him to proceed.

§ 1176. Obstructing highway-railroad grade crossings. No person shall drive a vehicle onto the railroad tracks at a highway-railroad grade crossing unless there is sufficient undercarriage clearance to traverse the crossing and adequate space on the opposite side of the crossing to accommodate the vehicle he and/or she is driving, notwithstanding the

indication of any traffic control device which would permit him and/or her to proceed.

ARTICLE 30

SPEED RESTRICTIONS

Section 1180. Basic rule and maximum limits.

1180-a. Maximum speed limits.

1180-b. Owner liability for failure of operator to comply with certain posted maximum speed limits.

1180-c. Owner liability for failure of operator to comply with certain posted maximum speed limits.

1180-e. Owner liability for failure of operator to comply with certain posted maximum speed limits.

1180-f. Owner liability for failure of operator to comply with certain posted maximum speed limits.

1180-f*2. Owner liability for failure of operator to comply with certain posted maximum speed limits.

1180-g. Owner liability for failure of operator to comply with certain posted maximum speed limits.

1180-h. Owner liability for failure of operator to comply with certain posted maximum speed limits; Mt. Vernon.

1180-h*2. Owner liability for failure of operator to comply with certain posted maximum speed limits; city of Schenectady.

1180-h*3. Owner liability for failure of operator to comply with certain posted maximum speed limits.

1180-i. Owner liability for failure of operator to comply with certain posted maximum speed limits; village of Pelham.

1180-i*2. Owner liability for failure of operator to comply with certain posted maximum speed limits.

1180-i*3. Owner liability for failure of operator to comply with certain posted maximum speed limits; city of Ithaca.

1180-i*4. Owner liability for failure of operator to comply with certain posted maximum speed limits.

1180-i*5. Owner liability for failure of operator to comply with

certain posted maximum speed limits; city of Amsterdam.
1180-i*6. Owner liability for failure of operator to comply with certain posted maximum speed limits.
1181. Minimum speed regulations.
1182. Speed contests and races.
1182-a. Multi-jurisdictional speed contests, races and similar special events.
1182-b. Filming of movies, commercials and similar events.

§ 1180. Basic rule and maximum limits. (a) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

(b) Except as provided in subdivision (g) of this section and except when a special hazard exists that requires lower speed for compliance with subdivision (a) of this section or when maximum speed limits have been established as hereinafter authorized, no person shall drive a vehicle at a speed in excess of fifty-five miles per hour.

(c) Except as provided in subdivision (g) of this section, whenever maximum school speed limits have been established on a highway adjacent to a school as authorized in section sixteen hundred twenty, sixteen hundred twenty-two, sixteen hundred thirty, sixteen hundred forty-three or sixteen hundred sixty-two-a, no person shall drive in excess of such maximum school speed limits during:

(1) school days at times indicated on the school zone speed limit sign, provided, however, that such times shall be between the hours of seven o'clock A.M. and six o'clock P.M. or alternative times within such hours; or

(2) a period when the beacons attached to the school zone speed limit sign are flashing and such sign is equipped with a notice that indicates that the school zone speed limit is in effect when such beacons are flashing, provided, however, that such beacons shall only flash during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities.

(d) 1. Except as provided in subdivision (g) of this section, whenever maximum speed limits, other than school speed limits, have been established as authorized in sections sixteen hundred twenty, sixteen hundred twenty-two, sixteen hundred twenty-three, sixteen hundred twenty-seven, sixteen hundred thirty, sixteen hundred forty-three, sixteen hundred forty-four, sixteen hundred fifty-two, sixteen hundred sixty-two-a, sixteen hundred sixty-three, and sixteen hundred seventy, no person shall drive in excess of such maximum speed limits at any time.

2. Except as provided in subdivision (g) of this section, whenever maximum speed limits, other than school speed limits, have been established with respect to any restricted highway as authorized in section sixteen hundred twenty-five, no person shall drive in excess of such maximum speed limits at any time.

(e) The driver of every vehicle shall, consistent with the requirements of subdivision (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when approaching and passing by an emergency situation involving any authorized emergency vehicle which is parked, stopped or standing on a highway and which is displaying one or more red or combination red, white, and/or blue lights pursuant to the provisions of paragraph two and subparagraph b of paragraph four of subdivision forty-one of section three hundred seventy-five of this chapter, when traveling upon any narrow or winding roadway, and when any special hazard exists with respect to pedestrians, or other traffic by reason of weather or highway conditions, including, but not limited to a highway construction or maintenance work area, or when approaching a hazard vehicle which is parked, stopped or standing on the shoulder or on any portion of such highway and such hazard vehicle is displaying one or more amber lights pursuant to the provisions of paragraph three of subdivision forty-one of section three hundred seventy-five of this chapter.

(f) Except as provided in subdivision (g) of this section and except when a special hazard exists that requires lower speed for compliance with subdivision (a) or (e) of this section or when a lower maximum

speed limit has been established, no person shall drive a vehicle through a highway construction or maintenance work area at a speed in excess of the posted work area speed limit. The agency having jurisdiction over the affected street or highway may establish work area speed limits which are less than the normally posted speed limits; provided, however, that such normally posted speed limit may exceed the work area speed limit by no more than twenty miles per hour; and provided further that no such work area speed limit may be established at less than twenty-five miles per hour.

(g) (i) No person who uses a radar or laser detector in a vehicle with a gross vehicle weight rating of more than eighteen thousand pounds, or a commercial motor vehicle with a gross vehicle weight rating of more than ten thousand pounds, shall drive at a speed in excess of fifty-five miles per hour or, if a maximum speed limit other than fifty-five miles per hour as hereinbefore authorized has been established, at a speed in excess of such speed limit. The presence in any such vehicle of either: (1) a radar or laser detector connected to a power source and in an operable condition; or (2) a concealed radar or laser detector where a part of such detector is securely affixed to some part of the vehicle outside of the cab, in a manner which renders the detector not readily observable, is presumptive evidence of its use by any person operating such vehicle. Either such presumption shall be rebutted by any credible and reliable evidence which tends to show that such radar or laser detector was not in use.

(ii) The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a radar or laser detector, unless otherwise provided by law.

(h) Upon a conviction for a violation of subdivision (b), (c), (d), (f) or (g) of this section, the court shall record the speed upon which the conviction was based on the certificate required to be filed with the commissioner pursuant to section five hundred fourteen of this chapter, or if the conviction occurs in an administrative tribunal established pursuant to article two-A of this chapter, the speed upon which the conviction was based shall be entered in the department's records.

1. Every person convicted of a violation of subdivision (b) or

paragraph one of subdivision (d) of this section shall be punished as follows:

(i) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by not more than ten miles per hour, by a fine of not less than forty-five nor more than one hundred fifty dollars;

(ii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour but not more than thirty miles per hour, by a fine of not less than ninety nor more than three hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment;

(iii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than thirty miles per hour, by a fine of not less than one hundred eighty nor more than six hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

2. Every person convicted of a violation of subdivision (a) or (e) of this section shall be punished by a fine of not less than forty-five nor more than one hundred fifty dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment.

3. Every person convicted of a violation of paragraph two of subdivision (d), subdivision (f) or (g) of this section shall be punished as follows:

(i) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by not more than ten miles per hour, by a fine of not less than ninety nor more than one hundred fifty dollars;

(ii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour, but not more than thirty miles per hour, by a fine of not less than one hundred eighty nor more than three hundred dollars or by imprisonment for not more than thirty days, or by both such fine and imprisonment, provided, however, that where the vehicle is either (A) in violation of any rules or regulations involving

an out-of-service defect relating to brake systems, steering components and/or coupling devices, or (B) transporting flammable gas, radioactive materials or explosives, the fine shall be three hundred dollars or imprisonment for not more than thirty days, or both such fine and imprisonment;

(iii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than thirty miles per hour, by a fine of not less than three hundred sixty nor more than six hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment, provided, however, that where the vehicle is either (A) in violation of any rules or regulations involving an out-of-service defect relating to brake systems, steering components and/or coupling devices, or (B) transporting flammable gas, radioactive materials or explosives, the fine shall be six hundred dollars or imprisonment for not more than thirty days, or both such fine and imprisonment.

4. Every person convicted of a violation of subdivision (c) of this section when such violation occurs in a school speed zone during a school day between the hours of seven o'clock A.M. and six o'clock P.M., shall be punished as follows:

(i) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by not more than ten miles per hour, by a fine of not less than ninety nor more than three hundred dollars;

(ii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour but not more than thirty miles per hour, by a fine of not less than one hundred eighty nor more than six hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment;

(iii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than thirty miles per hour, by a fine of not less than three hundred sixty nor more than one thousand two hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

5. Notwithstanding the foregoing provisions of this subdivision, the maximum fine provided herein for the violation for which the person is sentenced may be increased by an additional one hundred fifty dollars if the conviction is for a second violation of any subdivision of this section where both violations were committed within an eighteen month period, and the maximum fine provided herein for the violation for which the person is sentenced may be increased by an additional three hundred seventy-five dollars if the conviction is for a third or subsequent violation of any subdivision of this section where all such violations were committed within an eighteen month period. Where an additional fine is provided by this paragraph, a sentence of imprisonment for not more than thirty days may be imposed in place of or in addition to any fine imposed.

§ 1180-a. Maximum speed limits. 1. Notwithstanding any other provision of law, no city, village, town, county, public authority, division, office or department of the state shall maintain or create (a) any speed limit in excess of fifty-five miles per hour on any road, highway, parkway or bridge or (b) any speed limit on any other portion of a public highway, which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November first, nineteen hundred seventy-three, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it; provided however, a lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon, and (c) provided further, paragraph (b) of this subdivision shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway. However, the commissioner of the department of transportation may establish a maximum speed limit of not more than sixty-five miles per hour on any state roadway which meets department criteria for such maximum speed.

2. Notwithstanding the provisions of paragraphs (a) and (b) of

subdivision one of this section, upon The Governor Thomas E. Dewey Thruway as such term is defined in section three hundred fifty-six of the public authorities law, the New York state thruway authority may establish a maximum speed limit of not more than sixty-five miles per hour provided that such maximum allowable speed limit is established in accordance with all applicable rules and regulations.

3. Notwithstanding the provisions of paragraphs (a) and (b) of subdivision one of this section, upon (a) the southern tier expressway from a point east of the town of Lowman, in the county of Chemung, thence generally westerly to the Pennsylvania border and from the Chemung interchange to New York touring route twenty-six, (b) interstate route eighty-one from the Pennsylvania border in Broome county to the interchange with New York state touring route twelve in Jefferson county, (c) the Adirondack northway portion of interstate route eighty-seven from the interchange with Crescent Road in Saratoga county to the province of Quebec, (d) interstate route eighty-eight from the interchange with New York state touring route three hundred sixty-nine in Broome county to the interchange with interstate route ninety in Schenectady county, (e) interstate route three hundred ninety, known as the Genesee Expressway, from the interchange with the southern tier expressway in Steuben county to the interchange with interstate route four hundred ninety in Monroe county, (f) interstate route four hundred ninety from interstate ninety exit forty-five in Ontario county to the city of Rochester in Monroe county and from interstate ninety exit forty-seven in Genesee county to the city of Rochester in Monroe county, (g) interstate route five hundred ninety from the interchange with interstate route three hundred ninety in Monroe county to the interchange with interstate route four hundred ninety in Monroe county, (h) route seventeen from the interchange with New York touring route three hundred ninety-four to the Pennsylvania border, (i) interstate route four hundred eighty-one from the southerly interchange with interstate route eighty-one in Onondaga county to the northerly interchange with interstate route eighty-one in Onondaga county, (j) New York state touring route four hundred eighty-one from the northerly interchange with interstate route eighty-one in Onondaga county to the city of Fulton in Oswego county, (k) interstate ninety from exit eight,

in the county of Rensselaer, thence generally easterly to the interchange with the Berkshire section of The Governor Thomas E. Dewey Thruway, (l) interstate route six hundred ninety, from the city of Syracuse and town of Geddes border, thence generally westerly to the interchange with the New York state thruway, (m) New York state touring route six hundred ninety, from the interchange with the New York state thruway, thence generally westerly to its intersection with New York state touring route forty-eight in the town of Lysander, (n) New York state touring route six hundred ninety-five, from the interchange with interstate route six hundred ninety approximately 2.3 miles to the interchange with New York state touring route five, (o) New York state touring route five from the interchange with New York state touring route six hundred ninety-five approximately 5.0 miles to the interchange with New York state touring route one hundred seventy-four in the town of Camillus, and (p) route five hundred thirty-one from the interchange with interstate route four hundred ninety in Monroe county to the interchange with route thirty-six in Monroe county, and (q) United States route two hundred nineteen, from the interchange with Armor Duelles Road in the town of Orchard Park, thence generally southerly to the interchange with New York state route thirty-nine in the town of Concord, the commissioner of the department of transportation may establish a maximum speed limit of not more than sixty-five miles per hour provided that such maximum allowable speed limit is established in accordance with all applicable rules and regulations.

*** § 1180-b. Owner liability for failure of operator to comply with certain posted maximum speed limits.** (a) 1. Notwithstanding any other provision of law, the city of New York 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 school speed zone within such city when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article. Such demonstration program shall empower the city of New York to install photo speed

violation monitoring systems within no more than seven hundred fifty school speed zones within such city at any one time and to operate such systems within such zones when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city of New York shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone. Such city shall prioritize the placement of photo speed violation monitoring systems in school speed zones based upon speed data or the crash history of a school speed zone. A photo speed violation monitoring system shall not be installed or operated on a controlled-access highway exit ramp or within three hundred feet along a highway that continues from the end of a controlled-access highway exit ramp.

2. No photo speed violation monitoring system shall be used in a school 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 city shall install signs bearing the words "photo enforced" below speed limit signs giving written notice to approaching motor vehicle operators that a photo speed violation monitoring system is in use, in conformance with standards established in the MUTCD, and shall modify existing signage to reflect such written notice in the regular course of maintenance.

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 he or she operates 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 city 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, video 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 city 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 city 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 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 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 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, microphotographs, 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 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, within a school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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.

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 school 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; and

4. "school speed zone" shall mean a radial distance not to exceed one thousand three hundred twenty feet from a school building, entrance, or exit.

(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 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 parking violations bureau of the city of New York. The liability of the owner pursuant to this section shall not exceed fifty 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 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 he or she 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.

* NB Effective until May 26, 2027

** 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, and a prominent warning to advise the person charged that following entry of a final decision or decisions in response to sixteen notices of liability issued within a period of twelve months imposing monetary liability upon such person as an owner for failure of an operator thereof to comply with posted maximum speed limits in a school speed zone within such city when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this chapter or when other speed limits are in effect as provided in subdivision (b),

(d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation-monitoring systems in accordance with article thirty of this chapter within such city, such person shall be required to install and maintain an intelligent speed assistance device on such motor vehicle owned by such person for the relevant installation period, and the approximate cost to the owner of installing, maintaining, and removing such device.

** NB Effective May 26, 2027

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 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 New York city parking violations bureau, or by any other entity authorized by the city to prepare and mail such notice of liability.

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

(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 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 (a) 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 (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 nine 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 of 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 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 photo devices to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand twenty 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones within the city 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 school 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 city in connection with the program;

12. the expenses incurred by the city in connection with the program;

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

14. the total amount of revenue expended on traffic and pedestrian safety within the city of New York; and

15. the effectiveness and adequacy of the hours of operation for such program to determine the impact on speeding violations and prevention of

crashes.

(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.

* NB Repealed July 1, 2030

*** § 1180-c. Owner liability for failure of operator to comply with certain posted maximum speed limits.** (a) 1. Notwithstanding any other provision of law, the city of Poughkeepsie 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 school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city of Poughkeepsie to install photo speed violation monitoring systems within no more than three school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall

consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 city 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 school speed zone and/or on speed limit signs applicable within such school 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 city 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 city 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 city 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 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 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 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, microphotographs, 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 city of Poughkeepsie 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Poughkeepsie, 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 parking violations bureau of the city of Poughkeepsie. The liability of the owner pursuant to this section shall not exceed fifty 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 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 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 Poughkeepsie, 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 city of Poughkeepsie 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 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 city of Poughkeepsie parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of liability.

(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 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 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 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.

(l) 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.

(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 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones within the city 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 school 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 city in connection with the program;

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

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

(n) 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.

* NB Repealed December 31, 2030

*** § 1180-e. Owner liability for failure of operator to comply with certain posted maximum speed limits; highway construction or maintenance work area.**

(a) 1. Notwithstanding any other provision of law, the commissioner of transportation 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 highway construction or maintenance work area located on a highway (i) when highway construction or maintenance work is occurring and a work area speed limit is in effect as provided in paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this article or (ii) when highway construction or maintenance work is occurring and other speed limits are in effect as provided in subdivision (b) or (g) or paragraph one of subdivision (d) of section eleven hundred eighty of this article. Such demonstration program shall empower the commissioner to install photo speed violation monitoring systems within no more than forty highway construction or maintenance work areas located on highways and to operate such systems within such work areas (iii) when highway construction or maintenance work is occurring and a work area speed limit is in effect as provided in paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this article or (iv) when highway construction or maintenance work is occurring and other speed limits are in effect as provided in subdivision (b) or (g) or paragraph one of subdivision (d) of section eleven hundred eighty of this article. The commissioner, in consultation with the superintendent of the division of state police, shall determine the location of the highway construction or maintenance work areas located on a highway in which to install and operate photo speed violation monitoring systems. In selecting a highway construction or maintenance work area in which to install and operate a photo speed violation monitoring system, the commissioner shall consider criteria including, but not limited to, the speed data, crash history, and roadway geometry applicable to such highway construction or maintenance work area. A photo speed violation monitoring system shall not be installed or operated on a highway exit ramp.

2. 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 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 highway construction or maintenance work area located on the thruway (i) when highway construction or maintenance work is occurring and a work area speed limit is in effect as provided in paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this article or (ii) when highway construction or maintenance work is occurring and other speed limits are in effect as provided in subdivision (b) or (g) or paragraph one of subdivision (d) of section eleven hundred eighty of this article. Such demonstration program shall empower such chair to install photo speed violation monitoring systems within no more than twenty highway construction or maintenance work areas located on the thruway and to operate such systems within such work areas (iii) when highway construction or maintenance work is occurring and a work area speed limit is in effect as provided in paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this article or (iv) when highway construction or maintenance work is occurring and other speed limits are in effect as provided in subdivision (b) or (g) or paragraph one of subdivision (d) of section eleven hundred eighty of this article. The chair of the thruway authority, in consultation with the superintendent of the division of state police, shall determine the location of the highway construction or maintenance work areas located on the thruway in which to install and operate photo speed violation monitoring systems. In selecting a highway construction or maintenance work area in which to install and operate a photo speed violation monitoring system, such chair shall consider criteria including, but not limited to, the speed data, crash history, and roadway geometry applicable to such highway construction or maintenance work area. A photo speed violation monitoring system shall not be installed or operated on a thruway exit ramp.

2-a. 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 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 highway construction or maintenance work area located on a Triborough bridge and tunnel authority facility (i) when highway construction or maintenance work is occurring and a work area speed limit is in effect as provided in paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this article or (ii) when highway construction or maintenance work is occurring and other speed limits are in effect as provided in subdivision (b) or (g) or paragraph one of subdivision (d) of section eleven hundred eighty of this article. Such demonstration program shall empower such chair to install photo speed violation monitoring systems within no more than nine highway construction or maintenance work areas located on Triborough bridge and tunnel authority facilities and to operate such systems within such work areas (iii) when highway construction or maintenance work is occurring and a work area speed limit is in effect as provided in paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this article or (iv) when highway construction or maintenance work is occurring and other speed limits are in effect as provided in subdivision (b) or (g) or paragraph one of subdivision (d) of section eleven hundred eighty of this article. The chair of the Triborough bridge and tunnel authority, in consultation with the chief of the metropolitan transportation authority police department or the chief of the Triborough bridge and tunnel authority peace officers appointed pursuant to subdivision twenty of section 2.10 of the criminal procedure law, shall determine the location of the highway construction or maintenance work areas located on Triborough bridge and tunnel authority facilities in which to install and operate photo speed violation monitoring systems. In selecting a highway construction or maintenance work area in which to install and operate a

photo speed violation monitoring system, such chair shall consider criteria including, but not limited to, the speed data, crash history, and roadway geometry applicable to such highway construction or maintenance work area. The New York state department of transportation and the New York city department of transportation may enter into a memorandum of understanding with the Triborough bridge and tunnel authority for the purposes of coordinating the planning, design, and installation of photo speed violation monitoring systems in such photo speed violation monitoring 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 or by the New York city department of transportation.

2-b. 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 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 highway construction or maintenance work area located on bridge authority facilities (i) when highway construction or maintenance work is occurring and a work area speed limit is in effect as provided in paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this article or (ii) when highway construction or maintenance work is occurring and other speed limits are in effect as provided in subdivision (b) or (g) or paragraph one of subdivision (d) of section eleven hundred eighty of this article. Such demonstration program shall empower such chair to install photo speed violation monitoring systems within no more than five highway construction or maintenance work areas located on bridge authority facilities and to operate such systems within such work areas (iii) when highway construction or maintenance work is occurring and a work area speed limit is in effect as provided in paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this article or (iv) when highway construction or maintenance work is occurring and other speed limits are in effect as provided in

subdivision (b) or (g) or paragraph one of subdivision (d) of section eleven hundred eighty of this article. The chair of the bridge authority, in consultation with the superintendent of the division of state police, shall determine the location of the highway construction or maintenance work areas located on bridge authority facilities in which to install and operate photo speed violation monitoring systems. In selecting a highway construction or maintenance work area in which to install and operate a photo speed violation monitoring system, such chair shall consider criteria including, but not limited to, the speed data, crash history, and roadway geometry applicable to such highway construction or maintenance work area. The New York state department of transportation may enter into a memorandum of understanding with the bridge authority for the purposes of coordinating the planning, design, and installation of photo speed violation monitoring systems in such photo speed violation monitoring 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.

3. No photo speed violation monitoring system shall be used in a highway construction or maintenance work area 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 five of this subdivision. The commissioner or chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, shall install signs giving notice that a photo speed violation monitoring system is in use, in conformance with standards established in the MUTCD.

4. 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 the operator operates 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 commissioner or the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge

authority, as applicable, 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, video or other recorded images produced by such system.

5. 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 commissioner or the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, 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.

6. (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 commissioner or the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, shows that they 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 commissioner or chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, 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 commissioner or chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, 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, microphotographs, 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 commissioner or chair of the thruway authority, Triborough bridge and tunnel authority, or bridge 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, within a highway construction or maintenance work area located on a highway, the thruway, Triborough bridge and tunnel authority facilities or bridge authority facilities, as applicable in violation of paragraph two of subdivision (d) or subdivision (f), or when other speed limits are in effect in violation of subdivision (b) or (g) or paragraph one of subdivision (d), of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such highway construction or maintenance work area, 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), (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. "bridge authority" shall mean the New York state bridge authority created pursuant to section five hundred twenty-seven of the public authorities law;

2. "bridge authority facility" shall mean the following bridges under the jurisdiction of the New York state bridge authority: the Bear Mountain bridge; the Newburgh Beacon bridge; the Mid-Hudson bridge; the Kingston-Rhinecliff bridge; and the Rip Van Winkle bridge;

3. "chair" shall mean the chair of the thruway authority, the chair of the bridge authority, or the president of the Triborough bridge and tunnel authority, as applicable;

4."commissioner" shall mean the commissioner of transportation;

5. "highway" shall mean a highway as defined by section one hundred eighteen of this chapter under the commissioner's jurisdiction;

6. "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;

7. "metropolitan transportation authority" shall mean the corporation created by section twelve hundred sixty-three of the public authorities law;

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

9. "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 highway construction or maintenance work area located on a highway, the thruway, Triborough bridge and tunnel authority facility or bridge authority facility in

violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article in accordance with the provisions of this section;

10. "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;

11. "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;

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

13. "Triborough bridge and tunnel authority facility" shall mean the following bridges and tunnels under the jurisdiction of the Triborough bridge and tunnel authority: the Bronx-Whitestone bridge; the Cross Bay Veterans Memorial bridge; the Henry Hudson bridge; the Marine Parkway-Gil Hodges Memorial bridge; the Robert F. Kennedy bridge; the Throgs Neck bridge; the Verrazzano-Narrows bridge; the Hugh L. Carey tunnel; and the Queens Midtown tunnel.

(d) A certificate, sworn to or affirmed by a technician employed by the commissioner or chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, 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), (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 not to exceed fifty dollars for a first violation, seventy-five dollars for a second violation both of which were committed within a period of eighteen months, and one hundred dollars for a third or subsequent violation all of which were committed within a period of eighteen months; 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 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), (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), (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 commissioner or chair as applicable, or by any other entity authorized by the commissioner or chair 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 and except that adjudication of liability imposed upon owners by this section for violations occurring in the city of New York 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 subdivision (b), (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 department of transportation, thruway authority, Triborough bridge and tunnel authority or bridge authority, as applicable, or to 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 department of transportation, thruway authority, Triborough bridge and tunnel authority or bridge authority, as applicable, 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 subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section, provided that the owner sends to the department of transportation, thruway authority, Triborough bridge and tunnel authority or bridge authority, as applicable, 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 subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article 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 department of transportation, thruway authority, Triborough bridge and tunnel authority or bridge authority, as applicable, from later submitting such information to the traffic violations bureau or court having jurisdiction as provided by this

paragraph.

2. (i) In the city of New York and in any city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, 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), (d), (f) or (g) of section eleven hundred eighty of this article, provided that:

(A) 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

(B) (1) within thirty-seven days after receiving notice from the 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 the 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 the bureau pursuant to regulations that may be promulgated for such purpose; or

(2) no later than the time period prescribed by item one of this clause, the lessor submits to the department of transportation, thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, 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 item shall be deemed to prohibit a lessor which submits information pursuant to this item to the department of transportation, thruway authority, Triborough bridge and tunnel authority or bridge authority, as applicable, from later submitting such information to the bureau as provided by item one of this clause.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) 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 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 subdivision (b), (d), (f) or (g) 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), (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), (d), (f) or (g) of section eleven hundred eighty of this article.

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

(m) If the commissioner or chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority adopts a demonstration program pursuant to subdivision (a) of this section the commissioner or chair of the thruway authority, as applicable, shall conduct a study and submit a report on or before May first, two thousand twenty-four and on the same date every two years thereafter in which the demonstration program is operable, and the chair of the Triborough bridge and tunnel authority or bridge authority, as applicable, shall conduct a study and submit a report on or before May first, two thousand twenty-eight and on the same date every two years thereafter in which the demonstration program is operable, on the results of the use of photo devices to the governor, the temporary president of the senate and the speaker of the assembly. The commissioner or chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, shall

also make such reports available on their public-facing websites, provided that they may provide aggregate data from paragraph one of this subdivision if the commissioner or chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, finds that publishing specific location data would jeopardize public safety. 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 highway construction or maintenance work areas on highways, the thruway, Triborough bridge and tunnel authority facilities or bridge authority facilities, as applicable, to the extent the information is maintained by the commissioner, the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, or the department of motor vehicles of this state;

3. the aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within highway construction or maintenance work areas where photo speed violation monitoring systems were used, to the extent the information is maintained by the commissioner, the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, or the department of motor vehicles of this state;

4. the number of violations recorded within all highway construction or maintenance work areas on highways, the thruway, Triborough bridge and tunnel authority facilities or bridge authority facilities, in the aggregate on a daily, weekly and monthly basis to the extent the information is maintained by the commissioner, the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, or the department of motor vehicles of this state;

5. the number of violations recorded within each highway construction or maintenance work area where a photo speed violation monitoring system

is used, in the aggregate on a daily, weekly and monthly basis;

6. to the extent the information is maintained by the commissioner, the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, or the department of motor vehicles of this state, the number of violations recorded within all highway construction or maintenance work areas on highways, the thruway, Triborough bridge and tunnel authority facilities or bridge authority facilities, 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 highway construction or maintenance work area 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, to the extent the information is maintained by the commissioner, the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, or the department of motor vehicles of this state;

10. the number of violations adjudicated and the results of such adjudications including breakdowns of dispositions made for violations recorded by such systems, to the extent the information is maintained by the commissioner, the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, or the department of motor vehicles of this state;

11. the total amount of revenue realized by the state or the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, in connection with the program;

12. the expenses incurred by the state or the thruway authority, Triborough bridge and tunnel authority, or bridge authority, as applicable, in connection with the program;

13. an itemized list of expenditures made by the state, thruway authority, Triborough bridge and tunnel authority, and the bridge authority on work zone safety projects undertaken in accordance with subdivisions eleven, twelve, fourteen and fifteen of section eighteen hundred three of this chapter; and

14. the quality of the adjudication process and its results, to the extent the information is maintained by the commissioner, the chair of the thruway authority, Triborough bridge and tunnel authority, or bridge authority, or the department of motor vehicles of this state.

(n) It shall be a defense to any prosecution for a violation of subdivision (b), (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.

* NB Repealed October 6, 2031

*** § 1180-f. Owner liability for failure of operator to comply with certain posted maximum speed limits.** (a) 1. Notwithstanding any other provision of law, the city of Albany 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 school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city of Albany to install photo speed violation monitoring systems within no more than twenty school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 city 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 school speed zone and/or on speed limit signs applicable within such school 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 he or she operates 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 city 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 city 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 city 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 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 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 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, microphotographs, 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 city of Albany 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Albany, 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 parking violations bureau of the city of Albany. The liability of the owner pursuant to this section shall not exceed fifty 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 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 he or she 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 Albany, 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 city of Albany 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 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 city of Albany parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of liability.

(j) Adjudication of the liability imposed upon owners of this section shall be by the city of Albany parking violations bureau.

(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 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.

(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 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 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones within the city 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 school 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 city in connection with the program;

12. the expenses incurred by the city 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.

* NB There are 2 § 1180-f's

* NB Repealed December 31, 2028

*** § 1180-f. Owner liability for failure of operator to comply with certain posted maximum speed limits.** (a) 1. Notwithstanding any other provision of law, the city of Syracuse 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 school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b),

(d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city of Syracuse to install photo speed violation monitoring systems within no more than thirty-four school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 city 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 school speed zone and/or on speed limit signs applicable within such school 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 he or she operates 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 city 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 city 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 city 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 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 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

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, microphotographs, 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 city of Syracuse 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Syracuse, 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 parking violations bureau of the city of Syracuse. The liability of the owner pursuant to this section shall not exceed fifty 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 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 he or she 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 Syracuse, 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 city of Syracuse 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 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 city of Syracuse parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of liability.

(j) Adjudication of the liability imposed upon owners of this section shall be by the city of Syracuse parking violations bureau.

(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 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.

(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 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 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones within the city 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 school 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 city in connection with the program;

12. the expenses incurred by the city 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.

* NB There are 2 § 1180-f's

* NB Repealed December 31, 2028

*** § 1180-g. Owner liability for failure of operator to comply with certain posted maximum speed limits.** (a) 1. Notwithstanding any other provision of law, the city of Kingston 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 school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student

activities. Such demonstration program shall empower the city of Kingston to install photo speed violation monitoring systems within no more than three school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 city 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 school speed zone and/or on speed limit signs applicable within such school 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 he or she operates 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 city 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 city 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 city 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 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 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 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, microphotographs, 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 city of Kingston 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Kingston, 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 parking violations bureau of the city of Kingston. The liability of the owner pursuant to this section shall not exceed fifty 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 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 he or she 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 Kingston, 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 city of Kingston 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 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 city of Kingston parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of liability.

(j) Adjudication of the liability imposed upon owners of this section shall be by the city of Kingston parking violations bureau.

(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 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.

(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 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 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones within the city 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 school 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 city in connection with the program;

12. the expenses incurred by the city 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.

* NB Repealed December 31, 2029

*** § 1180-h. Owner liability for failure of operator to comply with certain posted maximum speed limits; Mt.** Vernon. (a) 1. Notwithstanding any other provision of law, the city of Mt. Vernon 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 school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city of Mt. Vernon to install photo speed violation monitoring systems within no more than twenty school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other

speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 city 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 school speed zone and/or on speed limit signs applicable within such school 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 such operator operates 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 city 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 city 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 city 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 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 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 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, microphotographs, 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 city of Mt. Vernon 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Mt. Vernon, 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 parking violations bureau of the city of Mt. Vernon. The liability of the owner pursuant to this section shall not exceed fifty 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 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 city of Mt. Vernon, 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 by this section shall be by the city of Mt. Vernon 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 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 city of Mt. Vernon parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of

liability.

(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 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 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 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.

(l) 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.

(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 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones within the city 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 school 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 city in connection with the program;

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

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

(n) 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.

* NB Repealed December 1, 2031

* NB There are 3 § 1180-h's

*** § 1180-h. Owner liability for failure of operator to comply with certain posted maximum speed limits; city of Schenectady.** (a) 1. Notwithstanding any other provision of law, the city of Schenectady 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 school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city of Schenectady to install photo speed violation monitoring systems within no more than twenty school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such

student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 city 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 school speed zone and/or on speed limit signs applicable within such school 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 the operator operates 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 city 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 city 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 city 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 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 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 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, microphotographs, 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 city of Schenectady 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a

speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Schenectady, 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 parking violations bureau of the city of Schenectady. The liability of the owner pursuant to this section shall not exceed fifty 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 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 the 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 city of Schenectady, 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 city of Schenectady 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 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 city of Schenectady parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of liability.

(j) Adjudication of the liability imposed upon owners of this section shall be by the city of Schenectady parking violations bureau.

(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 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.

(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 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 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones

within the city 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 school 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 city in connection with the program;

12. the expenses incurred by the city 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.

* NB Repealed December 31, 2030
* NB There are 3 § 1180-h's

*** § 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 city of White Plains 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 school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city of White Plains to install photo speed violation monitoring systems within no more than three school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall consider criteria including, but not limited to, the speed data, crash

history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 city 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 school speed zone and/or on speed limit signs applicable within such school 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 he or she operates 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 city 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 city 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 city 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 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 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 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, microphotographs, 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 city of White Plains 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of White Plains, 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 parking violations bureau of the city of White Plains. The liability of the owner pursuant to this section shall not exceed fifty 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 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 he or she 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 White Plains, 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 city of White Plains 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 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 city of White Plains parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of liability.

(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 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 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 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.

(l) 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.

(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 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones within the city 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 school 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 city in connection with the program;

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

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

(n) 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.

* NB Repealed December 31, 2030

* NB There are 3 § 1180-h's

*** § 1180-i. Owner liability for failure of operator to comply with certain posted maximum speed limits; village of Pelham.** (a) 1. Notwithstanding any other provision of law, the village of Pelham 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 school speed zone within such village (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the village of Pelham to install photo speed violation monitoring systems within no more than seven school speed zones within such village at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school 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 school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 school speed zone and/or on speed limit signs applicable within such school 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 the operator operates 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, microphotographs, 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 Pelham 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the village of Pelham, 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 set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 the 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 Pelham, 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 a traffic violations bureau established pursuant to section three hundred seventy of the general municipal law or, if there be none, by the court having jurisdiction over traffic infractions.

(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 traffic violations bureau or court having jurisdiction.

(j) 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 such owner sends 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 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 the violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article 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 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.

(l) 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.

(m) 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 school 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 school 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 school speed zones within the village, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school 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 school 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.

(n) 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.

* NB Repealed December 31, 2031

* NB There are 6 § 1180-i's

*** § 1180-i. Owner liability for failure of operator to comply with certain posted maximum speed limits.** (a) 1. Notwithstanding any other provision of law, the city of New Rochelle 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 school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision

(b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city of New Rochelle to install photo speed violation monitoring systems within no more than three school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 city 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 school speed zone and/or on speed limit signs applicable within such school 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 he or she operates 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 city 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 city 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 city 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 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 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

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, microphotographs, 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 city of New Rochelle 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of New Rochelle, 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 parking violations bureau of the city of New Rochelle. The liability of the owner pursuant to this section shall not exceed fifty 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 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 he or she 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 Rochelle, 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 city of New Rochelle 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 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 city of New Rochelle parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of liability.

(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 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 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 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.

(l) 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.

(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 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones within the city 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 school 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 city in connection with the program;

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

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

(n) 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.

* NB Repealed December 31, 2031

* NB There are 6 § 1180-i's

*** § 1180-i. Owner liability for failure of operator to comply with certain posted maximum speed limits; city of Ithaca.** (a) 1. Notwithstanding any other provision of law, the city of Ithaca 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 school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower

the city of Ithaca to install photo speed violation monitoring systems within no more than twelve school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 city 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 school speed zone and/or on speed limit signs applicable within such school 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 the operator operates 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 city 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 city 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 city 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 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 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 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, microphotographs, 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 city of Ithaca 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Ithaca, 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 parking violations bureau of the city of Ithaca. The liability of the owner pursuant to this section shall not exceed fifty 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 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 the 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 city of Ithaca parking violations bureau, 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 city of Ithaca 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 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 city of Ithaca parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of liability.

(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 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 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 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.

(l) 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.

(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 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 school speed zones within the city, 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 school 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 school speed zones within the city, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school speed zones within the city 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 school 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 city in connection with the program;

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

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

(n) 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.

* NB Repealed December 31, 2031

* NB There are 6 § 1180-i's

*** § 1180-i. 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 Croton-on-Hudson 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 school speed zone within such village (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the village of Croton-on-Hudson to install photo speed violation monitoring systems within no more than three school speed zones within such village at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision

(b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school 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 school speed zone.

2. No photo speed violation monitoring system shall be used in a school 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 school speed zone and/or on speed limit signs applicable within such school 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 such operator operates 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, microphotographs, 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 Croton-on-Hudson 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 school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school 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;

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 school 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; and

4. "school speed zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by

the village of Croton-on-Hudson, 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 set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance 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 Croton-on-Hudson, 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 a traffic violations bureau established pursuant to section three hundred seventy of the general municipal law or, if there be none, by the court having jurisdiction over traffic infractions.

(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 traffic violations bureau or court having jurisdiction.

(j) 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 such owner sends 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 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 the violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article 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 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.

(l) 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.

(m) 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 school 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 school 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 school speed zones within the village, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each school 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 school 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 school 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.

(n) 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.

* NB Repealed December 31, 2031
* NB There are 6 § 1180-i's

§ 1181. Minimum speed regulations. (a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever a minimum speed limit has been established as authorized in sections sixteen hundred twenty or sixteen hundred forty-two, no person shall drive at a speed less than such minimum speed limit except when entering upon or preparing to exit from the highway upon which such a minimum speed limit has been established, when preparing to stop, or when necessary for safe operation or in compliance with law.

§ 1182. Speed contests and races. 1. Except as provided in section eleven hundred eighty-two-a of this article or section sixteen hundred thirty, sixteen hundred forty, sixteen hundred forty-two or sixteen hundred sixty of this chapter, no races, exhibitions or contests of speed shall be held and no person shall engage in or aid or abet in any motor vehicle or other speed contest or exhibition of speed on a highway. Such event, if held, shall be fully and efficiently patrolled for the entire distance over which such race, exhibition or contest for speed is to be held. Participants in a race, exhibition or contest of speed are exempted from compliance with any traffic laws otherwise applicable thereto, but shall exercise reasonable care. A violation of any of the provisions of this section shall constitute a misdemeanor and be punishable by imprisonment of not more than thirty days or a fine of not less than three hundred dollars nor more than five hundred twenty-five dollars, or both such fine and imprisonment.

2. A second conviction within twelve months of a violation of this section shall be punishable by imprisonment of not more than six months or a fine of not less than five hundred twenty-five dollars nor more than seven hundred fifty dollars, or both such fine and imprisonment.

§ 1182-a. Multi-jurisdictional speed contests, races and similar special events. 1. Notwithstanding any other provision of law to the contrary, the department of transportation may, by order, rule or regulation, prohibit or regulate races, speed contests, exhibitions of speed or other similar special events which are held on public highways in more than one county. Participants in an approved race, contest, or exhibition are exempted from compliance with any traffic laws otherwise applicable thereto, but shall exercise reasonable care. Such rules and regulations shall include, among other things, provision for adequate insurance coverage; provision for approval by the municipalities involved; provision for payment or reimbursement of all the costs and expenses of the state which are incurred in connection with such an event; provision for assumption of risk for damages or claims by the organizer, sponsor, driver, rider or participant in such event; provision for the closure of or restriction on public use and travel upon highways or parts thereof for a certain period of time whenever the state or local police determine such is necessary to protect the public safety, security, or convenience. Prior to the scheduled date of a proposed multi-jurisdictional race, speed contest, exhibition of speed or other similar special event, the sponsor or organizer shall apply, in writing, to the department of transportation for consideration of and authorization to conduct such an event. Such application shall be reviewed by the commissioner of transportation, the commissioner of economic development and the superintendent of state police, or their designees. Only if such persons unanimously agree that the proposed event should take place, the department of transportation shall continue the review process and shall establish such reasonable requirements as are necessary to protect the public safety.

2. Notwithstanding any other provision of law to the contrary, no person or entity shall have the right to bring an action against the state or municipality or any person employed by the state or municipality who was acting within the scope of his authority for damages resulting from or in connection with any such race, contest or exhibition. In the event of any such claim being brought against any

such individual employed by the state, the provisions of section seventeen of the public officers law shall apply.

3. The division of state police and the department of commerce are hereby authorized to provide necessary support and assistance to the department of transportation in connection with its power to prohibit or regulate races, speed contests, exhibitions of speed or other similar special events pursuant to this section.

§ 1182-b. Filming of movies, commercials and similar events. 1. Notwithstanding any other provision of law to the contrary, the department of transportation may, by order, rule or regulation, prohibit or regulate the filming of movies, commercials and similar events on state highways. Such rules and regulations shall include, among other things, provision for adequate insurance coverage; provision for consultation by the production company of any movie, commercial or similar events with the municipality involved; provision for payment or reimbursement of all of the costs and expenses of the state which are incurred in connection with such an event; provision for assumption of risk for damages or claims by the production company, its employees and participants in such event; provision for the closure of or restriction on public use and travel upon highways or parts thereof for a certain period of time whenever the state police determine such is necessary to protect the public safety, security, or convenience. Prior to the scheduled date of the filming of a movie, commercial or other similar events, the production company shall apply, in writing, to the department of transportation for consideration of and authorization to film such an event. Such application shall be reviewed by the commissioner of transportation, or his designee, the commissioner of commerce, or his designee, and the superintendent of state police, or his designee. Only if such persons unanimously agree that the proposed filming should take place, the department of transportation shall continue the review process and shall establish such reasonable requirements as are necessary to protect the public safety.

2. Notwithstanding any other provision of law to the contrary, no

person or entity shall have the right to bring an action against the state or municipality or any person employed by the state or municipality who was acting within the scope of his authority for damages resulting from or in connection with the filming of a movie, commercial or similar events. In the event of any such claim being brought against any such individual employed by the state, the provisions of section seventeen of the public officers law shall apply.

3. The division of state police and department of commerce are hereby authorized to provide necessary support and assistance to the department of transportation in connection with its power to prohibit or regulate the filming of movies, commercials or other similar events pursuant to this section.

ARTICLE 31
ALCOHOL AND DRUG-RELATED OFFENSES AND PROCEDURES APPLICABLE THERETO

Section 1192. Operating a motor vehicle while under the influence of alcohol or drugs.
1192-a. Operating a motor vehicle after having consumed alcohol; under the age of twenty-one; per se.
1193. Sanctions.
1194. Arrest and testing.
1194-a. Driving after having consumed alcohol; under twenty-one; procedure.
1195. Chemical test evidence.
1196. Alcohol and drug rehabilitation program.
1197. Special traffic options program for driving while intoxicated.
1198. Installation and operation of ignition interlock devices.
1198-a. Special procedures and disposition involving alcohol and substance abuse assessment and treatment.
1199. Driver responsibility assessment.

§ 1192. Operating a motor vehicle while under the influence of alcohol or drugs. 1. Driving while ability impaired. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the consumption of alcohol.

2. Driving while intoxicated; per se. No person shall operate a motor vehicle while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article.

2-a. Aggravated driving while intoxicated. (a) Per se. No person shall operate a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article.

(b) With a child. No person shall operate a motor vehicle in violation of subdivision two, three, four or four-a of this section while a child who is fifteen years of age or less is a passenger in such motor vehicle.

3. Driving while intoxicated. No person shall operate a motor vehicle while in an intoxicated condition.

4. Driving while ability impaired by drugs. No person shall operate a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the use of a drug as defined in this chapter.

4-a. Driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the combined influence of drugs or of alcohol and any drug or drugs.

5. Commercial motor vehicles: per se - level I. Notwithstanding the provisions of section eleven hundred ninety-five of this article, no person shall operate a commercial motor vehicle while such person has

..04 of one per centum or more but not more than .06 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article; provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section, or of section eleven hundred ninety-two-a of this article where a person under the age of twenty-one operates a commercial motor vehicle where a chemical analysis of such person's blood, breath, urine, or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article, indicates that such operator has .02 of one per centum or more but less than .04 of one per centum by weight of alcohol in such operator's blood.

6. Commercial motor vehicles; per se - level II. Notwithstanding the provisions of section eleven hundred ninety-five of this article, no person shall operate a commercial motor vehicle while such person has more than .06 of one per centum but less than .08 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article; provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section.

7. Where applicable. The provisions of this section shall apply upon public highways, private roads open to motor vehicle traffic and any other parking lot. For the purposes of this section "parking lot" shall mean any area or areas of private property, including a driveway, near or contiguous to and provided in connection with premises and used as a means of access to and egress from a public highway to such premises and having a capacity for the parking of four or more motor vehicles. The provisions of this section shall not apply to any area or areas of private property comprising all or part of property on which is situated a one or two family residence.

8. Effect of prior out-of-state conviction. A prior out-of-state

conviction for operating a motor vehicle while under the influence of alcohol or drugs shall be deemed to be a prior conviction of a violation of this section for purposes of determining penalties imposed under this section or for purposes of any administrative action required to be taken pursuant to subdivision two of section eleven hundred ninety-three of this article; provided, however, that such conduct, had it occurred in this state, would have constituted a misdemeanor or felony violation of any of the provisions of this section. Provided, however, that if such conduct, had it occurred in this state, would have constituted a violation of any provisions of this section which are not misdemeanor or felony offenses, then such conduct shall be deemed to be a prior conviction of a violation of subdivision one of this section for purposes of determining penalties imposed under this section or for purposes of any administrative action required to be taken pursuant to subdivision two of section eleven hundred ninety-three of this article.

8-a. Effect of prior finding of having consumed alcohol. A prior finding that a person under the age of twenty-one has operated a motor vehicle after having consumed alcohol pursuant to section eleven hundred ninety-four-a of this article shall have the same effect as a prior conviction of a violation of subdivision one of this section solely for the purpose of determining the length of any license suspension or revocation required to be imposed under any provision of this article, provided that the subsequent offense is committed prior to the expiration of the retention period for such prior offense or offenses set forth in paragraph (k) of subdivision one of section two hundred one of this chapter.

9. Conviction of a different charge. A driver may be convicted of a violation of subdivision one, two or three of this section, notwithstanding that the charge laid before the court alleged a violation of subdivision two or three of this section, and regardless of whether or not such conviction is based on a plea of guilty.

10. Plea bargain limitations. (a) (i) In any case wherein the charge laid before the court alleges a violation of subdivision two, three, four or four-a of this section, any plea of guilty thereafter entered in

satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of one of the subdivisions of this section, other than subdivision five or six, and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney, upon reviewing the available evidence, determines that the charge of a violation of this section is not warranted, such district attorney may consent, and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge; provided, however, in all such cases, the court shall set forth upon the record the basis for such disposition.

(ii) In any case wherein the charge laid before the court alleges a violation of subdivision two, three, four or four-a of this section, no plea of guilty to subdivision one of this section shall be accepted by the court unless such plea includes as a condition thereof the requirement that the defendant attend and complete the alcohol and drug rehabilitation program established pursuant to section eleven hundred ninety-six of this article, including any assessment and treatment required thereby; provided, however, that such requirement may be waived by the court upon application of the district attorney or the defendant demonstrating that the defendant, as a condition of the plea, has been required to enter into and complete an alcohol or drug treatment program prescribed pursuant to an alcohol or substance abuse screening or assessment conducted pursuant to section eleven hundred ninety-eight-a of this article or for other good cause shown. The provisions of this subparagraph shall apply, notwithstanding any bars to participation in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article; provided, however, that nothing in this paragraph shall authorize the issuance of a conditional license unless otherwise authorized by law.

(iii) In any case wherein the charge laid before the court alleges a violation of subdivision one of this section and the operator was under the age of twenty-one at the time of such violation, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of such subdivision; provided, however, such charge may instead be satisfied as provided in paragraph (c) of this subdivision, and, provided further that, if the district

attorney, upon reviewing the available evidence, determines that the charge of a violation of subdivision one of this section is not warranted, such district attorney may consent, and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge; provided, however, in all such cases, the court shall set forth upon the record the basis for such disposition.

(b) In any case wherein the charge laid before the court alleges a violation of subdivision one or six of this section while operating a commercial motor vehicle, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of one of the subdivisions of this section and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney upon reviewing the available evidence determines that the charge of a violation of this section is not warranted, he may consent, and the court may allow, a disposition by plea of guilty to another charge is satisfaction of such charge.

(c) Except as provided in paragraph (b) of this subdivision, in any case wherein the charge laid before the court alleges a violation of subdivision one of this section by a person who was under the age of twenty-one at the time of commission of the offense, the court, with the consent of both parties, may allow the satisfaction of such charge by the defendant's agreement to be subject to action by the commissioner pursuant to section eleven hundred ninety-four-a of this article. In any such case, the defendant shall waive the right to a hearing under section eleven hundred ninety-four-a of this article and such waiver shall have the same force and effect as a finding of a violation of section eleven hundred ninety-two-a of this article entered after a hearing conducted pursuant to such section eleven hundred ninety-four-a. The defendant shall execute such waiver in open court, and, if represented by counsel, in the presence of his attorney, on a form to be provided by the commissioner, which shall be forwarded by the court to the commissioner within ninety-six hours. To be valid, such form shall, at a minimum, contain clear and conspicuous language advising the defendant that a duly executed waiver: (i) has the same force and effect as a guilty finding following a hearing pursuant to section eleven hundred ninety-four-a of this article; (ii) shall subject the defendant

to the imposition of sanctions pursuant to such section eleven hundred ninety-four-a; and (iii) may subject the defendant to increased sanctions upon a subsequent violation of this section or section eleven hundred ninety-two-a of this article. Upon receipt of a duly executed waiver pursuant to this paragraph, the commissioner shall take such administrative action and impose such sanctions as may be required by section eleven hundred ninety-four-a of this article.

(d) In any case wherein the charge laid before the court alleges a violation of subdivision two-a of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of subdivision two, two-a or three of this section, and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney, upon reviewing the available evidence, determines that the charge of a violation of this section is not warranted, such district attorney may consent and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge, provided, however, in all such cases, the court shall set forth upon the record the basis for such disposition. Provided, further, however, that no such plea shall be accepted by the court unless such plea includes as a condition thereof the requirement that the defendant attend and complete the alcohol and drug rehabilitation program established pursuant to section eleven hundred ninety-six of this article, including any assessment and treatment required thereby; provided, however, that such requirement may be waived by the court upon application of the district attorney or the defendant demonstrating that the defendant, as a condition of the plea, has been required to enter into and complete an alcohol or drug treatment program prescribed pursuant to an alcohol or substance abuse screening or assessment conducted pursuant to section eleven hundred ninety-eight-a of this article or for other good cause shown. The provisions of this paragraph shall apply, notwithstanding any bars to participation in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article; provided, however, that nothing in this paragraph shall authorize the issuance of a conditional license unless otherwise authorized by law.

11. No person other than an operator of a commercial motor vehicle may be charged with or convicted of a violation of subdivision five or six of this section.

12. Driving while intoxicated or while ability impaired by drugs--serious physical injury or death or child in the vehicle. (a) In every case where a person is charged with a violation of subdivision two, two-a, three, four or four-a of this section, the law enforcement officer alleging such charge shall make a clear notation in the "Description of Violation" section of a simplified traffic information (i) if, arising out of the same incident, someone other than the person charged was killed or suffered serious physical injury as defined in section 10.00 of the penal law; such notation shall be in the form of a "D" if someone other than the person charged was killed and such notation shall be in the form of a "S.P.I." if someone other than the person charged suffered serious physical injury; and (ii) if a child aged fifteen years or less was present in the vehicle of the person charged with a violation of subdivision two, two-a, three, four or four-a of this section; such notation shall be in the form of "C.I.V.". Provided, however, that the failure to make such notations shall in no way affect a charge for a violation of subdivision two, two-a, three, four or four-a of this section.

(b) Where a law enforcement officer alleges a violation of paragraph (b) of subdivision two-a of this section and the operator of the vehicle is a parent, guardian, or custodian of, or other person legally responsible for, a child aged fifteen years or less who is a passenger in such vehicle, then the officer shall report or cause a report to be made, if applicable, in accordance with title six of article six of the social services law.

§ 1192-a. Operating a motor vehicle after having consumed alcohol; under the age of twenty-one; per se. No person under the age of twenty-one shall operate a motor vehicle after having consumed alcohol as defined in this section. For purposes of this section, a person under the age of twenty-one is deemed to have consumed alcohol only if such person has .02 of one per centum or more but not more than .07 of one

per centum by weight of alcohol in the person's blood, as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article. Any person who operates a motor vehicle in violation of this section, and who is not charged with a violation of any subdivision of section eleven hundred ninety-two of this article arising out of the same incident shall be referred to the department for action in accordance with the provisions of section eleven hundred ninety-four-a of this article. Except as otherwise provided in subdivision five of section eleven hundred ninety-two of this article, this section shall not apply to a person who operates a commercial motor vehicle. Notwithstanding any provision of law to the contrary, a finding that a person under the age of twenty-one operated a motor vehicle after having consumed alcohol in violation of this section is not a judgment of conviction for a crime or any other offense.

§ 1193. Sanctions. 1. Criminal penalties. (a) Driving while ability impaired. A violation of subdivision one of section eleven hundred ninety-two of this article shall be a traffic infraction and shall be punishable by a fine of not less than three hundred dollars nor more than five hundred dollars or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment. A person who operates a vehicle in violation of such subdivision after having been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding five years shall be punished by a fine of not less than five hundred dollars nor more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment. A person who operates a vehicle in violation of such subdivision after having been convicted two or more times of a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not less than seven hundred fifty dollars nor more than fifteen hundred dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such fine and imprisonment.

(b) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; misdemeanor offenses. (i) A violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. A violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than one thousand dollars nor more than two thousand five hundred dollars or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment.

(ii) In addition to the imposition of any fine or period of imprisonment set forth in this paragraph, the court shall also sentence such person convicted of, or adjudicated a youthful offender for, a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article to a term of probation or conditional discharge, as a condition of which it shall order such person to install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of this article, an ignition interlock device in any motor vehicle owned or operated by such person during the term of such probation or conditional discharge imposed for such violation of section eleven hundred ninety-two of this article and in no event for a period of less than twelve months; provided, however, that such period of interlock restriction shall terminate upon submission of proof that such person installed and maintained an ignition interlock device for at least six months, unless the court ordered such person to install and maintain an ignition interlock device for a longer period as authorized by this subparagraph and specified in such order. The period of interlock restriction shall commence from the earlier of the date of sentencing, or the date that an ignition interlock device was installed in advance of sentencing. Provided, however, the court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked pursuant to the provisions of this section.

(c) Felony offenses. (i) A person who operates a vehicle (A) in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, within the preceding ten years, or (B) in violation of paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article shall be guilty of a class E felony, and shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(ii) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, twice within the preceding ten years, shall be guilty of a class D felony, and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(ii-a) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular

manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, three or more times within the preceding fifteen years, shall be guilty of a class D felony, and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(iii) In addition to the imposition of any fine or period of imprisonment set forth in this paragraph, the court shall also sentence such person convicted of, or adjudicated a youthful offender for, a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article to a period of probation or conditional discharge, as a condition of which it shall order such person to install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of this article, an ignition interlock device in any motor vehicle owned or operated by such person during the term of such probation or conditional discharge imposed for such violation of section eleven hundred ninety-two of this article and in no event for a period of less than twelve months; provided, however, that such period of interlock restriction shall terminate upon submission of proof that such person installed and maintained an ignition interlock device for at least six months, unless the court ordered such person to install and maintain a ignition interlock device for a longer period as authorized by this subparagraph and specified in such order. The period of interlock restriction shall commence from the earlier of the date of sentencing, or the date that an ignition interlock device was installed in advance of sentencing. Provided, however, the court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked pursuant to the provisions of this section.

(d) Alcohol or drug related offenses; special vehicles. (1) Except as provided in subparagraph four of this paragraph, a violation of subdivision one, two, three, four or four-a of section eleven hundred ninety-two of this article wherein the violator is operating a taxicab as defined in section one hundred forty-eight-a of this chapter, or livery as defined in section one hundred twenty-one-e of this chapter, and such taxicab or livery is carrying a passenger for compensation, or

a truck with a GVWR of more than eighteen thousand pounds but not more than twenty-six thousand pounds and which is not a commercial motor vehicle shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A violation of subdivision two-a of section eleven hundred ninety-two of this article wherein the violator is operating a taxicab as defined in section one hundred forty-eight-a of this chapter, or livery as defined in section one hundred twenty-one-e of this chapter, and such taxicab or livery is carrying a passenger for compensation, or a truck with a GVWR of more than eighteen thousand pounds but not more than twenty-six thousand pounds and which is not a commercial motor vehicle shall be a class E felony punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(1-a) A violation of subdivision one of section eleven hundred ninety-two of this article wherein the violator is operating a school bus as defined in section one hundred forty-two of this chapter and such school bus is carrying at least one student passenger shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(2) A violation of subdivision five of section eleven hundred ninety-two of this article shall be a traffic infraction punishable as provided in paragraph (a) of this subdivision. Except as provided in subparagraph three or five of this paragraph, a violation of subdivision one, two, three, four, four-a or six of section eleven hundred ninety-two of this article wherein the violator is operating a commercial motor vehicle, or any motor vehicle registered or registerable under schedule F of subdivision seven of section four hundred one of this chapter shall be a misdemeanor. A violation of subdivision one, two, three, four or four-a of section eleven hundred ninety-two of this article shall be punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A violation of subdivision six of section eleven

hundred ninety-two of this article shall be punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment not to exceed one hundred eighty days, or by both such fine and imprisonment. A person who operates any such vehicle in violation of such subdivision six after having been convicted of a violation of subdivision one, two, two-a, three, four, four-a or six of section eleven hundred ninety-two of this article within the preceding five years shall be punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A violation of subdivision two-a of section eleven hundred ninety-two of this article wherein the violator is operating a commercial motor vehicle, or any motor vehicle registered or registerable under schedule F of subdivision seven of section four hundred one of this chapter shall be a class E felony punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(3) A violation of subdivision one of section eleven hundred ninety-two of this article wherein the violator is operating a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(4) (i) A person who operates a vehicle in violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and which is punishable as provided in subparagraph one, one-a, two or three of this paragraph after having been convicted of a violation of any such subdivision of section eleven hundred ninety-two of this article and penalized under subparagraph one, one-a, two or three of this paragraph within the preceding ten years, shall be guilty of a class E felony, which shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A person who operates a vehicle in

violation of subdivision six of section eleven hundred ninety-two of this article after having been convicted of two or more violations of subdivisions one, two, two-a, three, four, four-a or six of section eleven hundred ninety-two of this article within the preceding five years, any one of which was a misdemeanor, shall be guilty of a class E felony, which shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. In addition, any person sentenced pursuant to this subparagraph shall be subject to the disqualification provided in subparagraph three of paragraph (e) of subdivision two of this section.

(ii) A person who operates a vehicle in violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and which is punishable as provided in subparagraph one, one-a, two or three of this paragraph after having been convicted of a violation of any such subdivision of section eleven hundred ninety-two of this article and penalized under subparagraph one, one-a, two or three of this paragraph twice within the preceding ten years, shall be guilty of a class D felony, which shall be punishable by a fine of not less than two thousand dollars nor more than ten thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A person who operates a vehicle in violation of subdivision six of section eleven hundred ninety-two of this article after having been convicted of three or more violations of subdivisions one, two, two-a, three, four, four-a or six of section eleven hundred ninety-two of this article within the preceding five years, any one of which was a misdemeanor, shall be guilty of a class D felony, which shall be punishable by a fine of not less than two thousand dollars nor more than ten thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. In addition, any person sentenced pursuant to this subparagraph shall be subject to the disqualification provided in subparagraph three of paragraph (e) of subdivision two of this section.

(4-a) A violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article wherein the violator is operating a school bus as defined in section one hundred forty-two of this chapter and such school bus is carrying at least one student

passenger shall be a class E felony punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A violation of subdivision two-a of section eleven hundred ninety-two of this article wherein the violator is operating a school bus as defined in section one hundred forty-two of this chapter and such school bus is carrying at least one student passenger shall be a class D felony punishable by a fine of not less than two thousand dollars nor more than ten thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(5) A violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article wherein the violator is operating a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives, shall be a class E felony punishable by a fine of not less than one thousand dollars and such other penalties as provided for in the penal law; provided, however, that a conviction for such violation shall not be considered a predicate felony pursuant to section 70.06 of such law, or a previous felony conviction pursuant to section 70.10 of such law. A violation of subdivision two-a of section eleven hundred ninety-two of this article wherein the violator is operating a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives, shall be a class D felony punishable by a fine of not less than two thousand nor more than ten thousand dollars and such other penalties as provided for in the penal law; provided, however, that a conviction for such violation shall not be considered a predicate felony pursuant to section 70.06 of such law, or a previous felony conviction pursuant to section 70.10 of such law.

(6) The sentences required to be imposed by subparagraph one, one-a, two, three, four, four-a or five of this paragraph shall be imposed notwithstanding any contrary provision of this chapter or the penal law.

(7) Nothing contained in this paragraph shall prohibit the imposition of a charge of any other felony set forth in this or any other provision of law for any acts arising out of the same incident.

(e) Certain sentences prohibited. Notwithstanding any provisions of

the penal law, no judge or magistrate shall impose a sentence of unconditional discharge for a violation of any subdivision of section eleven hundred ninety-two of this article nor shall a judge or magistrate impose a sentence of conditional discharge or probation unless such conditional discharge or probation is accompanied by a sentence of a fine as provided in this subdivision.

(f) Where the court imposes a sentence for a violation of section eleven hundred ninety-two of this article, the court may require the defendant, as a part of or as a condition of such sentence, to attend a single session conducted by a victims impact program. For purposes of this section, "victims impact program" means a program operated by a county, a city with a population of one million or more, by a not-for-profit organization authorized by any such county or city, or a combination thereof, in which presentations are made concerning the impact of operating a motor vehicle while under the influence of alcohol or drugs to one or more persons who have been convicted of such offenses. A description of any such program shall be filed with the commissioner and with the coordinator of the special traffic options program for driving while intoxicated established pursuant to section eleven hundred ninety-seven of this article, and shall be made available to the court upon request. Nothing contained herein shall be construed to require any governmental entity to create such a victim impact program.

(g) The office of probation and correctional alternatives shall recommend to the commissioner of the division of criminal justice services regulations governing the monitoring of compliance by persons ordered to install and maintain ignition interlock devices to provide standards for monitoring by departments of probation, and options for monitoring of compliance by such persons, that counties may adopt as an alternative to monitoring by a department of probation.

1-a. Additional penalties. (a) Except as provided for in paragraph (b) of this subdivision, a person who operates a vehicle in violation of subdivision two or three of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two or three of such section within the preceding five years shall, in addition to any other penalties which may be imposed pursuant to subdivision one

of this section, be sentenced to a term of imprisonment of five days or, as an alternative to such imprisonment, be required to perform thirty days of service for a public or not-for-profit corporation, association, institution or agency as set forth in paragraph (h) of subdivision two of section 65.10 of the penal law as a condition of sentencing for such violation. Notwithstanding the provisions of this paragraph, a sentence of a term of imprisonment of five days or more pursuant to the provisions of subdivision one of this section shall be deemed to be in compliance with this subdivision.

(b) A person who operates a vehicle in violation of subdivision two or three of section eleven hundred ninety-two of this article after having been convicted on two or more occasions of a violation of any of such subdivisions within the preceding five years shall, in addition to any other penalties which may be imposed pursuant to subdivision one of this section, be sentenced to a term of imprisonment of ten days or, as an alternative to such imprisonment, be required to perform sixty days of service for a public or not-for-profit corporation, association, institution or agency as set forth in paragraph (h) of subdivision two of section 65.10 of the penal law as a condition of sentencing for such violation. Notwithstanding the provisions of this paragraph, a sentence of a term of imprisonment of ten days or more pursuant to the provisions of subdivision one of this section shall be deemed to be in compliance with this subdivision.

(c) A court sentencing a person pursuant to paragraph (a) or (b) of this subdivision shall: (i) order the installation of an ignition interlock device approved pursuant to section eleven hundred ninety-eight of this article in any motor vehicle owned or operated by the person so sentenced. Such devices shall remain installed during any period of license revocation required to be imposed pursuant to paragraph (b) of subdivision two of this section, and, upon the termination of such revocation period, for an additional period as determined by the court; and (ii) order that such person receive an assessment of the degree of their alcohol or substance abuse and dependency pursuant to the provisions of section eleven hundred ninety-eight-a of this article. Where such assessment indicates the need for treatment, such court is authorized to impose treatment as a condition of such sentence except that such court shall impose treatment

as a condition of a sentence of probation or conditional discharge pursuant to the provisions of subdivision three of section eleven hundred ninety-eight-a of this article. Any person ordered to install an ignition interlock device pursuant to this paragraph shall be subject to the provisions of subdivisions four, five, seven, eight and nine of section eleven hundred ninety-eight of this article.

(d) Confidentiality of records. The provisions of subdivision six of section eleven hundred ninety-eight-a of this article shall apply to the records and content of all assessments and treatment conducted pursuant to this subdivision.

2. License sanctions. (a) Suspensions. Except as otherwise provided in this subdivision, a license shall be suspended and a registration may be suspended for the following periods:

(1) Driving while ability impaired. Ninety days, where the holder is convicted of a violation of subdivision one of section eleven hundred ninety-two of this article;

(2) Persons under the age of twenty-one; driving after having consumed alcohol. Six months, where the holder has been found to have operated a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article where such person was under the age of twenty-one at the time of commission of such violation.

(b) Revocations. A license shall be revoked and a registration may be revoked for the following minimum periods:

(1) Driving while ability impaired; prior offense. Six months, where the holder is convicted of a violation of subdivision one of section eleven hundred ninety-two of this article committed within five years of a conviction for a violation of any subdivision of section eleven hundred ninety-two of this article.

(1-a) Driving while ability impaired; misdemeanor offense. Six months, where the holder is convicted of a violation of subdivision one of section eleven hundred ninety-two of this article committed within ten years of two previous convictions for a violation of any subdivision of section eleven hundred ninety-two of this article.

(2) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated. Six months,

where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article. One year where the holder is convicted of a violation of subdivision two-a of section eleven hundred ninety-two of this article.

(3) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; prior offense. One year, where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article. Eighteen months, where the holder is convicted of a violation of subdivision two-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article; or where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two-a of section eleven hundred ninety-two of this article.

(4) Special vehicles other than school buses. One year, where the holder is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article and is sentenced pursuant to subparagraph one of paragraph (d) of subdivision one of this section.

(4-a) School buses. (A) One year, where the holder is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article, such violation was committed while the holder was driving a school bus, and the holder is sentenced pursuant to subparagraph one, one-a or four-a of paragraph (d) of subdivision one of this section.

(B) Three years where the holder is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article, such violation was committed while the holder was driving a school bus, and the holder is sentenced pursuant to subparagraph four of paragraph (d) of subdivision one of this section.

(C) Notwithstanding the provisions of the opening paragraph of this paragraph (b), the commissioner shall not revoke the registration of a school bus driven in violation of section eleven hundred ninety-two of

this article.

(5) Holder of a commercial driver's license. (i) Except as otherwise provided in this subparagraph, one year where the holder of a commercial driver's license is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or if such holder is convicted of an offense consisting of operating a motor vehicle under the influence of alcohol or drugs where such conviction was had outside of this state.

(ii) Three years, where the holder is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article, such violation was committed while the holder was operating a commercial motor vehicle transporting hazardous materials or if such holder is convicted of an offense consisting of operating a motor vehicle under the influence of alcohol or drugs where such conviction was had outside of this state.

(6) Persons under the age of twenty-one. One year, where the holder is convicted of or adjudicated a youthful offender for a violation of any subdivision of section eleven hundred ninety-two of this article, or is convicted of or receives a youthful offender or other juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction, or youthful offender or other juvenile adjudication was had outside this state, where such person was under the age of twenty-one at the time of commission of such violation.

(7) Persons under the age of twenty-one; prior offense or finding. One year or until the holder reaches the age of twenty-one, whichever is the greater period of time, where the holder has been found to have operated a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, or is convicted of, or adjudicated a youthful offender for, a violation of any subdivision of section eleven hundred ninety-two of this article, or is convicted of or receives a youthful offender or juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction, or youthful offender or other juvenile adjudication was had outside this state, where such person was under the age of twenty-one at the time of commission of such violation and has previously been found to have operated a motor vehicle after

having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, or has previously been convicted of, or adjudicated a youthful offender for, any violation of section eleven hundred ninety-two of this article not arising out of the same incident, or has previously been convicted of or received a youthful offender or juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor when the conviction, or youthful offender or other juvenile adjudication was had outside this state and not arising out of the same.

(8) Out-of-state offenses. Except as provided in subparagraph six or seven of this paragraph: (i) ninety days, where the holder is convicted of an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction was had outside this state and (ii) six months, where the holder is convicted of, or receives a youthful offender or other juvenile adjudication, which would have been a misdemeanor or felony if committed by an adult, in connection with, an offense consisting of operating a motor vehicle under the influence of or while impaired by the use of drugs where the conviction or youthful offender or other juvenile adjudication was had outside this state.

(9) Effect of rehabilitation program. No period of revocation arising out of subparagraph four, five, six or seven of this paragraph may be set aside by the commissioner for the reason that such person was a participant in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this chapter.

(10) Action required by commissioner. Where a court fails to impose, or incorrectly imposes, a suspension or revocation required by this subdivision, the commissioner shall, upon receipt of a certificate of conviction filed pursuant to section five hundred fourteen of this chapter, impose such mandated suspension or revocation, which shall supersede any such order which the court may have imposed.

(11) Limitation of certain mandatory revocations. Where revocation is mandatory pursuant to subparagraph five of this paragraph for a conviction of a violation of subdivision five of section eleven hundred ninety-two of this article, such revocation shall be issued only by the commissioner and shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of

commercial motor vehicles, and the commissioner shall immediately issue a license, other than a commercial driver's license, to such person provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard.

(12) Permanent revocation. (a) Notwithstanding any other provision of this chapter to the contrary, whenever a revocation is imposed upon a person for the refusal to submit to a chemical test pursuant to the provisions of section eleven hundred ninety-four of this article or conviction for any violation of section eleven hundred ninety-two of this article for which a sentence of imprisonment may be imposed, and such person has: (i) within the previous four years been twice convicted of any provisions of section eleven hundred ninety-two of this article or a violation of the penal law for which a violation of such section eleven hundred ninety-two is an essential element and at least one such conviction was for a crime, or has twice been found to have refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this article, or has any combination of two such convictions and findings of refusal not arising out of the same incident; or (ii) within the previous eight years been convicted three times of any provision of section eleven hundred ninety-two of this article for which a sentence of imprisonment may be imposed or a violation of the penal law for which a violation of such section eleven hundred ninety-two is an essential element and at least two such convictions were for crimes, or has been found, on three separate occasions, to have refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this article, or has any combination of such convictions and findings of refusal not arising out of the same incident, such revocation shall be permanent.

(b) The permanent driver's license revocation required by clause (a) of this subparagraph shall be waived by the commissioner after a period of five years has expired since the imposition of such permanent revocation, provided that during such five-year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this article while operating a motor vehicle and has not been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or section five

hundred eleven of this chapter or a violation of the penal law for which a violation of any subdivision of such section eleven hundred ninety-two is an essential element and either:

(i) that such person provides acceptable documentation to the commissioner that such person has voluntarily enrolled in and successfully completed an appropriate rehabilitation program; or

(ii) that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

Provided, however, that the commissioner may, on a case by case basis, refuse to restore a license which otherwise would be restored pursuant to this item, in the interest of the public safety and welfare.

(c) For revocations imposed pursuant to clause (a) of this subparagraph, the commissioner may adopt rules to permit conditional or restricted operation of a motor vehicle by any such person after a mandatory revocation period of not less than three years subject to such criteria, terms and conditions as established by the commissioner.

(d) Upon (i) a finding of refusal after having been convicted three times within four years of a violation of any subdivision of section eleven hundred ninety-two of this article or of the penal law for which a violation of any subdivision of such section eleven hundred ninety-two is an essential element or any combination of three such convictions not arising out of the same incident within four years or (ii) a fourth conviction of any subdivision of section eleven hundred ninety-two of this article after having been convicted of any such subdivision of such section eleven hundred ninety-two or of the penal law for which a violation of any of such subdivisions of such section eleven hundred ninety-two is an essential element or any combination of three such convictions not arising out of the same incident within four years or (iii) a finding of refusal after having been convicted four times within eight years of a violation of any subdivision of section eleven hundred ninety-two of this article or of the penal law for which a violation of any of such subdivisions of such section eleven hundred ninety-two is an essential element or any combination of four such convictions not arising out of the same incident within eight years or (iv) a fifth conviction of any subdivision of section eleven hundred ninety-two of

this article after having been convicted of such subdivision or of the penal law for which a violation of any of such subdivisions of such section eleven hundred ninety-two is an essential element or any combination of four such convictions not arising out of the same incident within eight years, such revocation shall be permanent.

(e) The permanent driver's license revocation required by clause (d) of this subparagraph may be waived by the commissioner after a period of eight years has expired since the imposition of such permanent revocation provided:

(i) that during such eight-year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this article while operating a motor vehicle and has not been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or section five hundred eleven of this chapter or a violation of the penal law for which a violation of any such subdivisions of such section eleven hundred ninety-two is an essential element; and

(ii) that such person provides acceptable documentation to the commissioner that such person has voluntarily enrolled in and successfully completed an appropriate rehabilitation program; and

(iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

Notwithstanding the provisions of this clause, nothing contained in this clause shall be deemed to require the commissioner to restore a license to an applicant who otherwise has complied with the requirements of this item, in the interest of the public safety and welfare.

(f) Nothing contained in this subparagraph shall be deemed to reduce a license revocation period imposed pursuant to any other provision of law.

(c) Reissuance of licenses; restrictions. (1) Except as otherwise provided in this paragraph, where a license is revoked pursuant to paragraph (b) of this subdivision, no new license shall be issued after the expiration of the minimum period specified in such paragraph, except in the discretion of the commissioner.

(2) Where a license is revoked pursuant to subparagraph two, three or

eight of paragraph (b) of this subdivision for a violation of subdivision four of section eleven hundred ninety-two of this article, and where the individual does not have a driver's license or the individual's license was suspended at the time of conviction or youthful offender or other juvenile adjudication, the commissioner shall not issue a new license nor restore the former license for a period of six months after such individual would otherwise have become eligible to obtain a new license or to have the former license restored; provided, however, that during such delay period the commissioner may issue a restricted use license pursuant to section five hundred thirty of this chapter.

(3) In no event shall a new license be issued where a person has been twice convicted of a violation of subdivision three, four or four-a of section eleven hundred ninety-two of this article or of driving while intoxicated or of driving while ability is impaired by the use of a drug or of driving while ability is impaired by the combined influence of drugs or of alcohol and any drug or drugs where physical injury, as defined in section 10.00 of the penal law, has resulted from such offense in each instance.

(d) Suspension or revocation; sentencing. (1) Notwithstanding anything to the contrary contained in a certificate of relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, where a suspension or revocation, other than a revocation required to be issued by the commissioner, is mandatory pursuant to paragraph (a) or (b) of this subdivision, the magistrate, justice or judge shall issue an order suspending or revoking such license upon sentencing, and the license holder shall surrender such license to the court. Except as hereinafter provided, such suspension or revocation shall take effect immediately.

(2) Except where the license holder has been charged with a violation of article one hundred twenty or one hundred twenty-five of the penal law arising out of the same incident or convicted of such violation or a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding five years, the judge, justice or magistrate may issue an order making said license suspension or revocation take effect twenty days after the date of sentencing. The license holder shall be given a copy of said order permitting the

continuation of driving privileges for twenty days after sentencing, if granted by the court. The court shall forward to the commissioner the certificates required in sections five hundred thirteen and five hundred fourteen of this chapter, along with a copy of any order issued pursuant to this paragraph and the license, within ninety-six hours of sentencing.

(e) Special provisions. (1) Suspension pending prosecution; procedure. a. Without notice, pending any prosecution, the court shall suspend such license, where the holder has been charged with a violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and either (i) a violation of a felony under article one hundred twenty or one hundred twenty-five of the penal law arising out of the same incident, or (ii) has been convicted of any violation under section eleven hundred ninety-two of this article within the preceding five years.

b. The suspension under the preceding clause shall occur no later than twenty days after the holder's first appearance before the court on the charges or at the conclusion of all proceedings required for the arraignment. In order for the court to impose such suspension it must find that the accusatory instrument conforms to the requirements of section 100.40 of the criminal procedure law and there exists reasonable cause to believe that the holder operated a motor vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and either (i) the person had been convicted of any violation under such section eleven hundred ninety-two of this article within the preceding five years; or (ii) that the holder committed a violation of a felony under article one hundred twenty or one hundred twenty-five of the penal law. At such time the holder shall be entitled to an opportunity to make a statement regarding the enumerated issues and to present evidence tending to rebut the court's findings. Where such suspension is imposed upon a pending charge of a violation of a felony under article one hundred twenty or one hundred twenty-five of the penal law and the holder has requested a hearing pursuant to article one hundred eighty of the criminal procedure law, the court shall conduct such hearing. If upon completion of the hearing, the court fails to find that there is reasonable cause to believe that

the holder committed a felony under article one hundred twenty or one hundred twenty-five of the penal law and the holder has not been previously convicted of any violation of section eleven hundred ninety-two of this article within the preceding five years the court shall promptly notify the commissioner and direct restoration of such license to the license holder unless such license is suspended or revoked pursuant to any other provision of this chapter.

(2) Bail forfeiture. A license shall be suspended where the holder forfeits bail upon a charge of a violation of any subdivision of section eleven hundred ninety-two of this article. Such suspension shall not be terminated until the holder submits to the jurisdiction of the court in which the bail was forfeited.

(3) Permanent disqualification from operating certain motor vehicles. a. Except as otherwise provided herein, in addition to any revocation set forth in subparagraph four or five of paragraph (b) of this subdivision, any person sentenced pursuant to subparagraph three of paragraph (d) of subdivision one of this section shall be permanently disqualified from operating any vehicle set forth in such paragraph. In addition, the commissioner shall not issue such person a license valid for the operation of any vehicle set forth therein by such person. The commissioner may waive such disqualification and prohibition hereinbefore provided after a period of five years has expired from such sentencing provided:

(i) that during such five year period such person has not violated any of the provisions of section eleven hundred ninety-two of this article or any alcohol or drug related traffic offense in this state or in any jurisdiction outside this state;

(ii) that such person provides acceptable documentation to the commissioner that such person is not in need of alcohol or drug treatment or has satisfactorily completed a prescribed course of such treatment; and

(iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

b. Any person who holds a commercial driver's license and is convicted of a violation of any subdivision of section eleven hundred ninety-two

of this article who has had a prior finding of refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of this article or has had a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this article; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter, shall be permanently disqualified from operating a commercial motor vehicle. The commissioner may waive such disqualification and prohibition hereinbefore provided after a period of ten years has expired from such sentence provided:

(i) that during such ten year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this article while operating a motor vehicle and has not been convicted of any one of the following offenses while operating a motor vehicle: any violation of section eleven hundred ninety-two of this article; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter;

(ii) that such person provides acceptable documentation to the commissioner that such person is not in need of alcohol or drug treatment or has satisfactorily completed a prescribed course of such treatment; and

(iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

c. Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances.

(4) Youthful offenders. Where a youth is determined to be a youthful offender, following a conviction of a violation of section eleven hundred ninety-two of this article for which a license suspension or revocation is mandatory, the court shall impose such suspension or revocation as is otherwise required upon conviction and, further, shall

notify the commissioner of said suspension or revocation and its finding that said violator is granted youthful offender status as is required pursuant to section five hundred thirteen of this chapter.

(5) Probation. When a license to operate a motor vehicle has been revoked pursuant to this chapter, and the holder has been sentenced to a period of probation pursuant to section 65.00 of the penal law for a violation of any provision of this chapter, or any other provision of the laws of this state, and a condition of such probation is that the holder thereof not operate a motor vehicle or not apply for a license to operate a motor vehicle during the period of such condition of probation, the commissioner may not restore such license until the period of the condition of probation has expired.

(6) Application for new license. Where a license has been revoked pursuant to paragraph (b) of this subdivision, or where the holder is subject to a condition of probation as provided in subparagraph five of this paragraph, application for a new license may be made within forty-five days prior to the expiration of such minimum period of revocation or condition of probation, whichever expires last.

(7) Suspension pending prosecution; excessive blood alcohol content. a. Except as provided in clause a-1 of this subparagraph, a court shall suspend a driver's license, pending prosecution, of any person charged with a violation of subdivision two, two-a, three or four-a of section eleven hundred ninety-two of this article who, at the time of arrest, is alleged to have had .08 of one percent or more by weight of alcohol in such driver's blood as shown by chemical analysis of blood, breath, urine or saliva, made pursuant to subdivision two or three of section eleven hundred ninety-four of this article.

a-1. A court shall suspend a class DJ or MJ learner's permit or a class DJ or MJ driver's license, pending prosecution, of any person who has been charged with a violation of subdivision one, two, two-a and/or three of section eleven hundred ninety-two of this article.

b. The suspension occurring under clause a of this subparagraph shall occur no later than at the conclusion of all proceedings required for the arraignment and the suspension occurring under clause a-1 of this subparagraph shall occur immediately after the holder's first appearance

before the court on the charge which shall, whenever possible, be the next regularly scheduled session of the court after the arrest or at the conclusion of all proceedings required for the arraignment; provided, however, that if the results of any test administered pursuant to section eleven hundred ninety-four of this article are not available within such time period, the complainant police officer or other public servant shall transmit such results to the court at the time they become available, and the court shall, as soon as practicable following the receipt of such results and in compliance with the requirements of this subparagraph, suspend such license. In order for the court to impose such suspension it must find that the accusatory instrument conforms to the requirements of section 100.40 of the criminal procedure law and there exists reasonable cause to believe either that (a) the holder operated a motor vehicle while such holder had .08 of one percent or more by weight of alcohol in his or her blood as was shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article or (b) the person was the holder of a class DJ or MJ learner's permit or a class DJ or MJ driver's license and operated a motor vehicle while such holder was in violation of subdivision one, two and/or three of section eleven hundred ninety-two of this article. At the time of such license suspension the holder shall be entitled to an opportunity to make a statement regarding these two issues and to present evidence tending to rebut the court's findings.

c. Nothing contained in this subparagraph shall be construed to prohibit or limit a court from imposing any other suspension pending prosecution required or permitted by law.

d. Notwithstanding any contrary provision of this chapter, if any suspension occurring under this subparagraph has been in effect for a period of thirty days, the holder may be issued a conditional license, in accordance with section eleven hundred ninety-six of this article, provided the holder of such license is otherwise eligible to receive such conditional license. A conditional license issued pursuant to this subparagraph shall not be valid for the operation of a commercial motor vehicle. The commissioner shall prescribe by regulation the procedures

for the issuance of such conditional license.

e. If the court finds that the suspension imposed pursuant to this subparagraph will result in extreme hardship, the court must issue such suspension, but may grant a hardship privilege, which shall be issued on a form prescribed by the commissioner. For the purposes of this clause, "extreme hardship" shall mean the inability to obtain alternative means of travel to or from the licensee's employment, or to or from necessary medical treatment for the licensee or a member of the licensee's household, or if the licensee is a matriculating student enrolled in an accredited school, college or university travel to or from such licensee's school, college or university if such travel is necessary for the completion of the educational degree or certificate. The burden of proving extreme hardship shall be on the licensee who may present material and relevant evidence. A finding of extreme hardship may not be based solely upon the testimony of the licensee. In no event shall arraignment be adjourned or otherwise delayed more than three business days solely for the purpose of allowing the licensee to present evidence of extreme hardship. The court shall set forth upon the record, or otherwise set forth in writing, the factual basis for such finding. The hardship privilege shall permit the operation of a vehicle only for travel to or from the licensee's employment, or to or from necessary medical treatment for the licensee or a member of the licensee's household, or if the licensee is a matriculating student enrolled in an accredited school, college or university travel to or from such licensee's school, college or university if such travel is necessary for the completion of the educational degree or certificate. A hardship privilege shall not be valid for the operation of a commercial motor vehicle.

(f) Notice of charges to parent or guardian. Notwithstanding the provisions of subdivision two of section eighteen hundred seven of this chapter, upon the first scheduled appearance of any person under eighteen years of age who resides within the household of his or her parent or guardian upon a charge of a violation of subdivision one, two and/or three of section eleven hundred ninety-two of this article, the local criminal court before which such first appearance is scheduled shall forthwith transmit written notice of such appearance or failure to

make such appearance to the parent or guardian of such minor person; provided, however, that if an arraignment and conviction of such person follows such appearance upon the same day, or in case such person waives arraignment and enters a plea of guilty to the offense as charged in accordance with the provisions of section eighteen hundred five of this chapter, transmittal of notice of his or her conviction as provided in section five hundred fourteen of this chapter shall be sufficient and the notice required by this paragraph need not be given; provided further that the failure of a local criminal court to transmit the notice required by this paragraph shall in no manner affect the validity of a conviction subsequently obtained.

§ 1194. Arrest and testing. 1. Arrest and field testing. (a) Arrest. Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of subdivision one of section eleven hundred ninety-two of this article, if such violation is coupled with an accident or collision in which such person is involved, which in fact has been committed, though not in the police officer's presence, when the officer has reasonable cause to believe that the violation was committed by such person.

(b) Field testing. Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision two of this section.

2. Chemical tests. (a) When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of the blood provided that such test is administered by or at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the

direction of a police officer:

(1) having reasonable grounds to believe such person to have been operating in violation of any subdivision of section eleven hundred ninety-two of this article and within two hours after such person has been placed under arrest for any such violation; or having reasonable grounds to believe such person to have been operating in violation of section eleven hundred ninety-two-a of this article and within two hours after the stop of such person for any such violation,

(2) within two hours after a breath test, as provided in paragraph (b) of subdivision one of this section, indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member;

(3) for the purposes of this paragraph, "reasonable grounds" to believe that a person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of such subdivision. Such circumstances may include any visible or behavioral indication of alcohol consumption by the operator, the existence of an open container containing or having contained an alcoholic beverage in or around the vehicle driven by the operator, or any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle after having consumed alcohol at the time of the incident; or

(4) notwithstanding any other provision of law to the contrary, no person under the age of twenty-one shall be arrested for an alleged violation of section eleven hundred ninety-two-a of this article. However, a person under the age of twenty-one for whom a chemical test is authorized pursuant to this paragraph may be temporarily detained by the police solely for the purpose of requesting or administering such chemical test whenever arrest without a warrant for a petty offense would be authorized in accordance with the provisions of section 140.10 of the criminal procedure law or paragraph (a) of subdivision one of this section.

(b) Report of refusal. (1) If: (A) such person having been placed under arrest; or (B) after a breath test indicates the presence of

alcohol in the person's system; or (C) with regard to a person under the age of twenty-one, there are reasonable grounds to believe that such person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article; and having thereafter been requested to submit to such chemical test and having been informed that the person's license or permit to drive and any non-resident operating privilege shall be immediately suspended and subsequently revoked, or, for operators under the age of twenty-one for whom there are reasonable grounds to believe that such operator has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, shall be revoked for refusal to submit to such chemical test or any portion thereof, whether or not the person is found guilty of the charge for which such person is arrested or detained, refuses to submit to such chemical test or any portion thereof, unless a court order has been granted pursuant to subdivision three of this section, the test shall not be given and a written report of such refusal shall be immediately made by the police officer before whom such refusal was made. Such report may be verified by having the report sworn to, or by affixing to such report a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law and such form notice together with the subscription of the deponent shall constitute a verification of the report.

(2) The report of the police officer shall set forth reasonable grounds to believe such arrested person or such detained person under the age of twenty-one had been driving in violation of any subdivision of section eleven hundred ninety-two or eleven hundred ninety-two-a of this article, that said person had refused to submit to such chemical test, and that no chemical test was administered pursuant to the requirements of subdivision three of this section. The report shall be presented to the court upon arraignment of an arrested person, provided, however, in the case of a person under the age of twenty-one, for whom a test was authorized pursuant to the provisions of subparagraph two or three of paragraph (a) of this subdivision, and who has not been placed under arrest for a violation of any of the provisions of section eleven hundred ninety-two of this article, such report shall be forwarded to the commissioner within forty-eight hours in a manner to be prescribed

by the commissioner, and all subsequent proceedings with regard to refusal to submit to such chemical test by such person shall be as set forth in subdivision three of section eleven hundred ninety-four-a of this article.

(3) For persons placed under arrest for a violation of any subdivision of section eleven hundred ninety-two of this article, the license or permit to drive and any non-resident operating privilege shall, upon the basis of such written report, be temporarily suspended by the court without notice pending the determination of a hearing as provided in paragraph (c) of this subdivision. Copies of such report must be transmitted by the court to the commissioner and such transmittal may not be waived even with the consent of all the parties. Such report shall be forwarded to the commissioner within forty-eight hours of such arraignment.

(4) The court or the police officer, in the case of a person under the age of twenty-one alleged to be driving after having consumed alcohol, shall provide such person with a scheduled hearing date, a waiver form, and such other information as may be required by the commissioner. If a hearing, as provided for in paragraph (c) of this subdivision, or subdivision three of section eleven hundred ninety-four-a of this article, is waived by such person, the commissioner shall immediately revoke the license, permit, or non-resident operating privilege, as of the date of receipt of such waiver in accordance with the provisions of paragraph (d) of this subdivision.

(c) Hearings. Any person whose license or permit to drive or any non-resident driving privilege has been suspended pursuant to paragraph (b) of this subdivision is entitled to a hearing in accordance with a hearing schedule to be promulgated by the commissioner. If the department fails to provide for such hearing fifteen days after the date of the arraignment of the arrested person, the license, permit to drive or non-resident operating privilege of such person shall be reinstated pending a hearing pursuant to this section. The hearing shall be limited to the following issues: (1) did the police officer have reasonable grounds to believe that such person had been driving in violation of any subdivision of section eleven hundred ninety-two of this article; (2) did the police officer make a lawful arrest of such person; (3) was such person given sufficient warning, in clear or unequivocal language, prior

to such refusal that such refusal to submit to such chemical test or any portion thereof, would result in the immediate suspension and subsequent revocation of such person's license or operating privilege whether or not such person is found guilty of the charge for which the arrest was made; and (4) did such person refuse to submit to such chemical test or any portion thereof. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds on any one of said issues in the negative, the hearing officer shall immediately terminate any suspension arising from such refusal. If, after such hearing, the hearing officer, acting on behalf of the commissioner finds all of the issues in the affirmative, such officer shall immediately revoke the license or permit to drive or any non-resident operating privilege in accordance with the provisions of paragraph (d) of this subdivision. A person who has had a license or permit to drive or non-resident operating privilege suspended or revoked pursuant to this subdivision may appeal the findings of the hearing officer in accordance with the provisions of article three-A of this chapter. Any person may waive the right to a hearing under this section. Failure by such person to appear for the scheduled hearing shall constitute a waiver of such hearing, provided, however, that such person may petition the commissioner for a new hearing which shall be held as soon as practicable.

(d) Sanctions. (1) Revocations. a. Any license which has been revoked pursuant to paragraph (c) of this subdivision shall not be restored for at least one year after such revocation, nor thereafter, except in the discretion of the commissioner. However, no such license shall be restored for at least eighteen months after such revocation, nor thereafter except in the discretion of the commissioner, in any case where the person has had a prior revocation resulting from refusal to submit to a chemical test, or has been convicted of or found to be in violation of any subdivision of section eleven hundred ninety-two or section eleven hundred ninety-two-a of this article not arising out of the same incident, within the five years immediately preceding the date of such revocation; provided, however, a prior finding that a person under the age of twenty-one has refused to submit to a chemical test pursuant to subdivision three of section eleven hundred ninety-four-a of this article shall have the same effect as a prior finding of a refusal pursuant to this subdivision solely for the purpose of determining the

length of any license suspension or revocation required to be imposed under any provision of this article, provided that the subsequent offense or refusal is committed or occurred prior to the expiration of the retention period for such prior refusal as set forth in paragraph (k) of subdivision one of section two hundred one of this chapter.

b. Any license which has been revoked pursuant to paragraph (c) of this subdivision or pursuant to subdivision three of section eleven hundred ninety-four-a of this article, where the holder was under the age of twenty-one years at the time of such refusal, shall not be restored for at least one year, nor thereafter, except in the discretion of the commissioner. Where such person under the age of twenty-one years has a prior finding, conviction or youthful offender adjudication resulting from a violation of section eleven hundred ninety-two or section eleven hundred ninety-two-a of this article, not arising from the same incident, such license shall not be restored for at least one year or until such person reaches the age of twenty-one years, whichever is the greater period of time, nor thereafter, except in the discretion of the commissioner.

c. Any commercial driver's license which has been revoked pursuant to paragraph (c) of this subdivision based upon a finding of refusal to submit to a chemical test, where such finding occurs within or outside of this state, shall not be restored for at least eighteen months after such revocation, nor thereafter, except in the discretion of the commissioner, but shall not be restored for at least three years after such revocation, nor thereafter, except in the discretion of the commissioner, if the holder of such license was operating a commercial motor vehicle transporting hazardous materials at the time of such refusal. However, such person shall be permanently disqualified from operating a commercial motor vehicle in any case where the holder has a prior finding of refusal to submit to a chemical test pursuant to this section or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this article; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section

five hundred ten-a of this chapter. Provided that the commissioner may waive such permanent revocation after a period of ten years has expired from such revocation provided:

(i) that during such ten year period such person has not been found to have refused a chemical test pursuant to this section and has not been convicted of any one of the following offenses: any violation of section eleven hundred ninety-two of this article; refusal to submit to a chemical test pursuant to this section; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter;

(ii) that such person provides acceptable documentation to the commissioner that such person is not in need of alcohol or drug treatment or has satisfactorily completed a prescribed course of such treatment; and

(iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized.

d. Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances.

(2) Civil penalties. Except as otherwise provided, any person whose license, permit to drive, or any non-resident operating privilege is revoked pursuant to the provisions of this section shall also be liable for a civil penalty in the amount of five hundred dollars except that if such revocation is a second or subsequent revocation pursuant to this section issued within a five year period, or such person has been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article within the past five years not arising out of the same incident, the civil penalty shall be in the amount of seven hundred fifty dollars. Any person whose license is revoked pursuant to the provisions of this section based upon a finding of refusal to submit to a chemical test while operating a commercial motor vehicle shall also be liable for a civil penalty of five hundred fifty dollars except that

if such person has previously been found to have refused a chemical test pursuant to this section while operating a commercial motor vehicle or has a prior conviction of any of the following offenses while operating a commercial motor vehicle: any violation of section eleven hundred ninety-two of this article; any violation of subdivision two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a commercial motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter, then the civil penalty shall be seven hundred fifty dollars. No new driver's license or permit shall be issued, or non-resident operating privilege restored to such person unless such penalty has been paid. All penalties collected by the department pursuant to the provisions of this section shall be the property of the state and shall be paid into the general fund of the state treasury.

(3) Effect of rehabilitation program. No period of revocation arising out of this section may be set aside by the commissioner for the reason that such person was a participant in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article.

(e) Regulations. The commissioner shall promulgate such rules and regulations as may be necessary to effectuate the provisions of subdivisions one and two of this section.

(f) Evidence. Evidence of a refusal to submit to such chemical test or any portion thereof shall be admissible in any trial, proceeding or hearing based upon a violation of the provisions of section eleven hundred ninety-two of this article but only upon a showing that the person was given sufficient warning, in clear and unequivocal language, of the effect of such refusal and that the person persisted in the refusal.

(g) Results. Upon the request of the person who was tested, the results of such test shall be made available to such person.

3. Compulsory chemical tests. (a) Court ordered chemical tests. Notwithstanding the provisions of subdivision two of this section, no person who operates a motor vehicle in this state may refuse to submit to a chemical test of one or more of the following: breath, blood, urine or saliva, for the purpose of determining the alcoholic and/or drug

content of the blood when a court order for such chemical test has been issued in accordance with the provisions of this subdivision.

(b) When authorized. Upon refusal by any person to submit to a chemical test or any portion thereof as described above, the test shall not be given unless a police officer or a district attorney, as defined in subdivision thirty-two of section 1.20 of the criminal procedure law, requests and obtains a court order to compel a person to submit to a chemical test to determine the alcoholic or drug content of the person's blood upon a finding of reasonable cause to believe that:

(1) such person was the operator of a motor vehicle and in the course of such operation a person other than the operator was killed or suffered serious physical injury as defined in section 10.00 of the penal law; and

(2) a. either such person operated the vehicle in violation of any subdivision of section eleven hundred ninety-two of this article, or

b. a breath test administered by a police officer in accordance with paragraph (b) of subdivision one of this section indicates that alcohol has been consumed by such person; and

(3) such person has been placed under lawful arrest; and

(4) such person has refused to submit to a chemical test or any portion thereof, requested in accordance with the provisions of paragraph (a) of subdivision two of this section or is unable to give consent to such a test.

(c) Reasonable cause; definition. For the purpose of this subdivision "reasonable cause" shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of section eleven hundred ninety-two of this article. Such circumstances may include, but are not limited to: evidence that the operator was operating a motor vehicle in violation of any provision of this article or any other moving violation at the time of the incident; any visible indication of alcohol or drug consumption or impairment by the operator; the existence of an open container containing an alcoholic beverage in or around the vehicle driven by the operator; any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle while impaired by the consumption of alcohol

or drugs or intoxicated at the time of the incident.

(d) Court order; procedure. (1) An application for a court order to compel submission to a chemical test or any portion thereof, may be made to any supreme court justice, county court judge or district court judge in the judicial district in which the incident occurred, or if the incident occurred in the city of New York before any supreme court justice or judge of the criminal court of the city of New York. Such application may be communicated by telephone, radio or other means of electronic communication, or in person.

(2) The applicant must provide identification by name and title and must state the purpose of the communication. Upon being advised that an application for a court order to compel submission to a chemical test is being made, the court shall place under oath the applicant and any other person providing information in support of the application as provided in subparagraph three of this paragraph. After being sworn the applicant must state that the person from whom the chemical test was requested was the operator of a motor vehicle and in the course of such operation a person, other than the operator, has been killed or seriously injured and, based upon the totality of circumstances, there is reasonable cause to believe that such person was operating a motor vehicle in violation of any subdivision of section eleven hundred ninety-two of this article and, after being placed under lawful arrest such person refused to submit to a chemical test or any portion thereof, in accordance with the provisions of this section or is unable to give consent to such a test or any portion thereof. The applicant must make specific allegations of fact to support such statement. Any other person properly identified, may present sworn allegations of fact in support of the applicant's statement.

(3) Upon being advised that an oral application for a court order to compel a person to submit to a chemical test is being made, a judge or justice shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and

transcription with the court within seventy-two hours of the issuance of the court order. If the longhand notes are taken, the judge shall subscribe a copy and file it with the court within twenty-four hours of the issuance of the order.

(4) If the court is satisfied that the requirements for the issuance of a court order pursuant to the provisions of paragraph (b) of this subdivision have been met, it may grant the application and issue an order requiring the accused to submit to a chemical test to determine the alcoholic and/or drug content of his blood and ordering the withdrawal of a blood sample in accordance with the provisions of paragraph (a) of subdivision four of this section. When a judge or justice determines to issue an order to compel submission to a chemical test based on an oral application, the applicant therefor shall prepare the order in accordance with the instructions of the judge or justice. In all cases the order shall include the name of the issuing judge or justice, the name of the applicant, and the date and time it was issued. It must be signed by the judge or justice if issued in person, or by the applicant if issued orally.

(5) Any false statement by an applicant or any other person in support of an application for a court order shall subject such person to the offenses for perjury set forth in article two hundred ten of the penal law.

(6) The chief administrator of the courts shall establish a schedule to provide that a sufficient number of judges or justices will be available in each judicial district to hear oral applications for court orders as permitted by this section.

(e) Administration of compulsory chemical test. An order issued pursuant to the provisions of this subdivision shall require that a chemical test to determine the alcoholic and/or drug content of the operator's blood must be administered. The provisions of paragraphs (a), (b) and (c) of subdivision four of this section shall be applicable to any chemical test administered pursuant to this section.

4. Testing procedures. (a) Persons authorized to withdraw blood; immunity; testimony. (1) At the request of a police officer, the following persons may withdraw blood for the purpose of determining the alcoholic or drug content therein: (i) a physician, a registered

professional nurse, a registered physician assistant, a certified nurse practitioner, or an advanced emergency medical technician as certified by the department of health; or (ii) under the supervision and at the direction of a physician, registered physician assistant or certified nurse practitioner acting within his or her lawful scope of practice, or upon the express consent of the person eighteen years of age or older from whom such blood is to be withdrawn: a clinical laboratory technician or clinical laboratory technologist licensed pursuant to article one hundred sixty-five of the education law; a phlebotomist; or a medical laboratory technician or medical technologist employed by a clinical laboratory approved under title five of article five of the public health law. This limitation shall not apply to the taking of a urine, saliva or breath specimen.

(2) No person entitled to withdraw blood pursuant to subparagraph one of this paragraph or hospital employing such person, and no other employer of such person shall be sued or held liable for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to this section.

(3) Any person who may have a cause of action arising from the withdrawal of blood as aforesaid, for which no personal liability exists under subparagraph two of this paragraph, may maintain such action against the state if any person entitled to withdraw blood pursuant to paragraph (a) hereof acted at the request of a police officer employed by the state, or against the appropriate political subdivision of the state if such person acted at the request of a police officer employed by a political subdivision of the state. No action shall be maintained pursuant to this subparagraph unless notice of claim is duly filed or served in compliance with law.

(4) Notwithstanding the foregoing provisions of this paragraph an action may be maintained by the state or a political subdivision thereof against a person entitled to withdraw blood pursuant to subparagraph one of this paragraph or hospital employing such person for whose act or omission the state or the political subdivision has been held liable under this paragraph to recover damages, not exceeding the amount awarded to the claimant, that may have been sustained by the state or the political subdivision by reason of gross negligence or bad faith on the part of such person.

(5) The testimony of any person other than a physician, entitled to withdraw blood pursuant to subparagraph one of this paragraph, in respect to any such withdrawal of blood made by such person may be received in evidence with the same weight, force and effect as if such withdrawal of blood were made by a physician.

(6) The provisions of subparagraphs two, three and four of this paragraph shall also apply with regard to any person employed by a hospital as security personnel for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to a court order in accordance with subdivision three of this section.

(b) Right to additional test. The person tested shall be permitted to choose a physician to administer a chemical test in addition to the one administered at the direction of the police officer.

(c) Rules and regulations. The department of health shall issue and file rules and regulations approving satisfactory techniques or methods of conducting chemical analyses of a person's blood, urine, breath or saliva and to ascertain the qualifications and competence of individuals to conduct and supervise chemical analyses of a person's blood, urine, breath or saliva. If the analyses were made by an individual possessing a permit issued by the department of health, this shall be presumptive evidence that the examination was properly given. The provisions of this paragraph do not prohibit the introduction as evidence of an analysis made by an individual other than a person possessing a permit issued by the department of health.

§ 1194-a. Driving after having consumed alcohol; under twenty-one; procedure. 1. Chemical test report and hearing. (a) Whenever a chemical test of the breath, blood, urine or saliva of an operator who is under the age of twenty-one indicates that such person has operated a motor vehicle in violation of section eleven hundred ninety-two-a of this article, and such person is not charged with violating any subdivision of section eleven hundred ninety-two arising out of the same incident, the police officer who administered the test shall forward a report of the results of such test to the department within twenty-four hours of the time when such results are available in a manner prescribed by the commissioner, and the operator shall be given a hearing notice as

provided in subdivision one-a of this section, to appear before a hearing officer in the county where the chemical test was administered, or in an adjoining county under such circumstances as prescribed by the commissioner, on a date to be established in accordance with a schedule promulgated by the commissioner. Such hearing shall occur within thirty days of, but not less than forty-eight hours from, the date that the chemical test was administered, provided, however, where the commissioner determines, based upon the availability of hearing officers and the anticipated volume of hearings at a particular location, that the scheduling of such hearing within thirty days would impair the timely scheduling or conducting of other hearings pursuant to this chapter, such hearing shall be scheduled at the next hearing date for such particular location. When providing the operator with such hearing notice, the police officer shall also give to the operator, and shall, prior to the commencement of the hearing, provide to the department, copies of the following reports, documents and materials: any written report or document, or portion thereof, concerning a physical examination, a scientific test or experiment, including the most recent record of inspection, or calibration or repair of machines or instruments utilized to perform such scientific tests or experiments and the certification certificate, if any, held by the operator of the machine or instrument, which tests or examinations were made by or at the request or direction of a public servant engaged in law enforcement activity. The report of the police officer shall be verified by having the report sworn to, or by affixing to such report a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law and such form notice together with the subscription of the deponent shall constitute verification of the report.

(b) Every person under the age of twenty-one who is alleged to have operated a motor vehicle after having consumed alcohol as set forth in section eleven hundred ninety-two-a of this article, and who is not charged with violating any subdivision of section eleven hundred ninety-two of this article arising out of the same incident, is entitled to a hearing before a hearing officer in accordance with the provisions of this section. Unless otherwise provided by law, the license or permit to drive or any non-resident operating privilege of such person shall

not be suspended or revoked prior to the scheduled date for such hearing.

(i) The hearing shall be limited to the following issues: (1) did such person operate the motor vehicle; (2) was a valid request to submit to a chemical test made by the police officer in accordance with the provisions of section eleven hundred ninety-four of this article; (3) was such person less than twenty-one years of age at the time of operation of the motor vehicle; (4) was the chemical test properly administered in accordance with the provisions of section eleven hundred ninety-four of this article; (5) did the test find that such person had driven after having consumed alcohol as defined in section eleven hundred ninety-two-a of this article; and (6) did the police officer make a lawful stop of such person. The burden of proof shall be on the police officer to prove each of these issues by clear and convincing evidence.

(ii) Every person who is entitled to a hearing pursuant to this subdivision has the right to be present at the hearing; the right to be represented by attorney, or in the hearing officer's discretion, by any other person the operator chooses; the right to receive and review discovery materials as provided in this subdivision; the right not to testify; the right to present evidence and witnesses in his own behalf, the right to cross examine adverse witnesses, and the right to appeal from an adverse determination in accordance with article three-A of this chapter. Any person representing the operator must conform to the standards of conduct required of attorneys appearing before state courts, and failure to conform to these standards will be grounds for declining to permit his continued appearance in the hearing.

(iii) Hearings conducted pursuant to this subdivision shall be in accordance with this subdivision and with the provisions applicable to the adjudication of traffic infractions pursuant to the following provisions of part 124 of title fifteen of the codes, rules and regulations of the state of New York: paragraph (b) of section 124.1 regarding the opening statement; paragraph (b) of section 124.2 regarding the right to representation and to remain silent and paragraphs (a) through (e) of section 124.4 regarding the conduct of the hearing, procedure and recusal; provided, however, that nothing contained in this subparagraph shall be deemed to preclude a hearing

officer from changing the order of a hearing conducted pursuant to this subdivision as justice may require and for good cause shown.

(iv) The rules governing receipt of evidence in a court of law shall not apply in a hearing conducted pursuant to this subdivision except as follows:

(1) on the merits of the charge, and whether or not a party objects, the hearing officer shall exclude from consideration the following: a privileged communication; evidence which, for constitutional reasons, would not be admissible in a court of law; evidence of prior misconduct, incompetency or illness, except where such evidence would be admissible in a court of law; evidence which is irrelevant or immaterial;

(2) no negative inference shall be drawn from the operator's exercising the right not to testify.

(v) If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds all of the issues set forth in this subdivision in the affirmative, the hearing officer shall suspend or revoke the license or permit to drive or non-resident operating privilege of such person in accordance with the time periods set forth in subdivision two of section eleven hundred ninety-three of this article. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds any of said issues in the negative, the hearing officer must find that the operator did not drive after having consumed alcohol.

(vi) A person who has had a license or permit to drive or non-resident operating privilege suspended or revoked pursuant to the provisions of this section may appeal the finding of the hearing officer in accordance with the provisions of article three-A of this chapter.

(c) Unless an adjournment of the hearing date has been granted, upon the operator's failure to appear for a scheduled hearing, the commissioner shall suspend the license or permit to drive or non-resident operating privilege until the operator petitions the commissioner and a rescheduled hearing is conducted, provided, however, the commissioner shall restore such person's license or permit to drive or non-resident operating privilege if such rescheduled hearing is adjourned at the request of a person other than the operator. Requests for adjournments shall be made and determined in accordance with regulations promulgated by the commissioner. If such a request by the operator for an adjournment is granted, the commissioner shall notify

the operator of the rescheduled hearing, which shall be scheduled for the next hearing date. If a second or subsequent request by the operator for an adjournment is granted, the operator's license or permit to drive or non-resident operating privilege may be suspended pending the hearing at the time such adjournment is granted; provided, however, that the records of the department or the evidence already admitted furnishes reasonable grounds to believe such suspension is necessary to prevent continuing violations or a substantial traffic safety hazard; and provided further, that such hearing shall be scheduled for the next hearing date.

If a police officer does not appear for a hearing, the hearing officer shall have the authority to dismiss the charge. Any person may waive the right to a hearing under this subdivision, in a form and manner prescribed by the commissioner, and may enter an admission of guilt, in person or by mail, to the charge of operating a motor vehicle in violation of section eleven hundred ninety-two-a of this article. Such admission of guilt shall have the same force and effect as a finding of guilt entered following a hearing conducted pursuant to this subdivision.

1-a. Hearing notice. The hearing notice issued to an operator pursuant to subdivision one of this section shall be in a form as prescribed by the commissioner. In addition to containing information concerning the time, date and location of the hearing, and such other information as the commissioner deems appropriate, such hearing notice shall also contain the following information: the date, time and place of the offense charged; the procedures for requesting an adjournment of a scheduled hearing as provided in this section, the operator's right to a hearing conducted pursuant to this section and the right to waive such hearing and plead guilty, either in person or by mail, to the offense charged.

2. Civil penalty. Unless otherwise provided, any person whose license, permit to drive, or any non-resident operating privilege is suspended or revoked pursuant to the provisions of this section shall also be liable for a civil penalty in the amount of one hundred twenty-five dollars,

which shall be distributed in accordance with the provisions of subdivision nine of section eighteen hundred three of this chapter.

3. Refusal report and hearing. (a) Any person under the age of twenty-one who is suspected of operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this chapter, and who is not charged with violating any subdivision of section eleven hundred ninety-two of this article arising out of the same incident, and who has been requested to submit to a chemical test pursuant to paragraph (a) of subdivision two of section eleven hundred ninety-four of this article and after having been informed that his license or permit to drive and any non-resident operating privilege shall be revoked for refusal to submit to such chemical test or any portion thereof, whether or not there is a finding of driving after having consumed alcohol, and such person refuses to submit to such chemical test or any portion thereof, shall be entitled to a hearing in accordance with a schedule promulgated by the commissioner, and such hearing shall occur within thirty days of, but not less than forty-eight hours from, the date of such refusal, provided, however, where the commissioner determines, based upon the availability of hearing officers and the anticipated volume of hearings at a particular location, that the scheduling of such hearing within thirty days would impair the timely scheduling or conducting of other hearings pursuant to this chapter, such hearing shall be scheduled at the next hearing date for such particular location.

(b) Unless an adjournment of the hearing date has been granted, upon the operator's failure to appear for a scheduled hearing, the commissioner shall suspend the license or permit to drive or non-resident operating privilege until the operator petitions the commissioner and a rescheduled hearing is conducted, provided, however, the commissioner shall restore such person's license or permit to drive or non-resident operating privilege if such rescheduled hearing is adjourned at the request of a person other than the operator. Requests for adjournments shall be made and determined in accordance with regulations promulgated by the commissioner. If such a request by the operator for an adjournment is granted, the commissioner shall notify the operator of the rescheduled hearing, which shall be scheduled for

the next hearing date. If a second or subsequent request by the operator for an adjournment is granted, the operator's license or permit to drive or non-resident operating privilege may be suspended pending the hearing at the time such adjournment is granted; provided, however, that the records of the department or the evidence already admitted furnishes reasonable grounds to believe such suspension is necessary to prevent continuing violations or a substantial traffic safety hazard; and provided further, that such hearing shall be scheduled for the next hearing date.

If a police officer does not appear for a hearing, the hearing officer shall have the authority to dismiss the charge. Any person may waive the right to a hearing under this subdivision.

(c) The hearing on the refusal to submit to a chemical test pursuant to this subdivision shall be limited to the following issues: (1) was a valid request to submit to a chemical test made by the police officer in accordance with the provisions of section eleven hundred ninety-four of this article; (2) was such person given sufficient warning, in clear or unequivocal language, prior to such refusal that such refusal to submit to such chemical test or any portion thereof, would result in the revocation of such person's license or permit to drive or nonresident operating privilege, whether or not such person is found to have operated a motor vehicle after having consumed alcohol; (3) did such person refuse to submit to such chemical test or any portion thereof; (4) did such person operate the motor vehicle; (5) was such person less than twenty-one years of age at the time of operation of the motor vehicle; (6) did the police officer make a lawful stop of such person. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds on any one said issue in the negative, the hearing officer shall not revoke the operator's license or permit to drive or non-resident operating privilege and shall immediately terminate any outstanding suspension of the operator's license, permit to drive or non-resident operating privilege arising from such refusal. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds all of the issues in the affirmative, such hearing officer shall immediately revoke the license or permit to drive or any non-resident operating privilege in accordance with the provisions of paragraph (d)

of subdivision two of section eleven hundred ninety-four of this article. A person who has had a license or permit to drive or non-resident operating privilege suspended or revoked pursuant to the provisions of this section may appeal the findings of the hearing officer in accordance with the provisions of article three-A of this chapter.

§ 1195. Chemical test evidence. 1. Admissibility. Upon the trial of any action or proceeding arising out of actions alleged to have been committed by any person arrested for a violation of any subdivision of section eleven hundred ninety-two of this article, the court shall admit evidence of the amount of alcohol or drugs in the defendant's blood as shown by a test administered pursuant to the provisions of section eleven hundred ninety-four of this article.

2. Probative value. The following effect shall be given to evidence of blood-alcohol content, as determined by such tests, of a person arrested for violation of section eleven hundred ninety-two of this article:

(a) Evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall be prima facie evidence that the ability of such person to operate a motor vehicle was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition;

(b) Evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be relevant evidence, but shall not be given prima facie effect, in determining whether the ability of such person to operate a motor vehicle was impaired by the consumption of alcohol; and

(c) Evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate a motor vehicle was impaired by the consumption of alcohol.

3. Suppression. A defendant who has been compelled to submit to a chemical test pursuant to the provisions of subdivision three of section eleven hundred ninety-four of this article may move for the suppression of such evidence in accordance with article seven hundred ten of the criminal procedure law on the grounds that the order was obtained and the test administered in violation of the provisions of such subdivision or any other applicable law.

§ 1196. Alcohol and drug rehabilitation program. 1. Program establishment. There is hereby established an alcohol and drug rehabilitation program within the department of motor vehicles. The commissioner shall establish, by regulation, the instructional and rehabilitative aspects of the program. Such program shall consist of at least fifteen hours and include, but need not be limited to, classroom instruction in areas deemed suitable by the commissioner. No person shall be required to attend or participate in such program or any aspect thereof for a period exceeding eight months except upon the recommendation of the department of mental hygiene or appropriate health officials administering the program on behalf of a municipality.

2. Curriculum. The form, content and method of presentation of the various aspects of such program shall be established by the commissioner. In the development of the form, curriculum and content of such program, the commissioner may consult with the commissioner of mental health, the director of the division of alcoholism and alcohol abuse, the director of the division of substance abuse services and any other state department or agency and request and receive assistance from them. The commissioner is also authorized to develop more than one curriculum and course content for such program in order to meet the varying rehabilitative needs of the participants.

3. Where available. A course in such program shall be available in at least every county in the state, except where the commissioner determines that there is not a sufficient number of alcohol or drug-related traffic offenses in a county to mandate the establishment

of said course, and that provisions be made for the residents of said county to attend a course in another county where a course exists.

4. Eligibility. Participation in the program shall be limited to those persons convicted of alcohol or drug-related traffic offenses or persons who have been adjudicated youthful offenders for alcohol or drug-related traffic offenses, or persons found to have been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, who choose to participate and who satisfy the criteria and meet the requirements for participation as established by this section and the regulations promulgated thereunder; provided, however, in the exercise of discretion, the judge imposing sentence may prohibit the defendant from enrolling in such program. The commissioner or deputy may exercise discretion, to reject any person from participation referred to such program and nothing herein contained shall be construed as creating a right to be included in any course or program established under this section. In addition, no person shall be permitted to take part in such program if, during the five years immediately preceding commission of an alcohol or drug-related traffic offense or a finding of a violation of section eleven hundred ninety-two-a of this article, such person has participated in a program established pursuant to this article or been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article other than a violation committed prior to November first, nineteen hundred eighty-eight, for which such person did not participate in such program. In the exercise of discretion, the commissioner or a deputy shall have the right to expel any participant from the program who fails to satisfy the requirements for participation in such program or who fails to satisfactorily participate in or attend any aspect of such program. Notwithstanding any contrary provisions of this chapter, satisfactory participation in and completion of a course in such program shall result in the termination of any sentence of imprisonment that may have been imposed by reason of a conviction therefor; provided, however, that nothing contained in this section shall delay the commencement of such sentence.

5. Effect of completion. Except as provided in subparagraph nine of

paragraph (b) of subdivision two of section eleven hundred ninety-three or in subparagraph three of paragraph (d) of subdivision two of section eleven hundred ninety-four of this article, upon successful completion of a course in such program as certified by its administrator, a participant may apply to the commissioner on a form provided for that purpose, for the termination of the suspension or revocation order issued as a result of the participant's conviction which caused the participation in such course. In the exercise of discretion, upon receipt of such application, and upon payment of any civil penalties for which the applicant may be liable, the commissioner is authorized to terminate such order or orders and return the participant's license or reinstate the privilege of operating a motor vehicle in this state. However, the commissioner shall not issue any new license nor restore any license where said issuance of restoral is prohibited by subdivision two of section eleven hundred ninety-three of this article.

6. Fees. The commissioner shall establish a schedule of fees to be paid by or on behalf of each participant in the program, and may, from time to time, modify same. Such fees shall defray the ongoing expenses of the program. Provided, however, that pursuant to an agreement with the department a municipality, department thereof, or other agency may conduct a course in such program with all or part of the expense of such course and program being borne by such municipality, department or agency. In no event shall such fee be refundable, either for reasons of the participant's withdrawal or expulsion from such program or otherwise.

7. Conditional license. (a) Notwithstanding any inconsistent provision of this chapter, participants in the program, except those penalized under paragraph (d) of subdivision one of section eleven hundred ninety-three of this article for any violation of subdivision two, three, or four of section eleven hundred ninety-two of this article, may, in the commissioner's discretion, be issued a conditional driver's license, or if the holder of a license issued by another jurisdiction valid for operation in this state, a conditional privilege of operating a motor vehicle in this state. Such a conditional license or privilege shall be valid only for use, by the holder thereof, (1) enroute to and

from the holder's place of employment, (2) if the holder's employment requires the operation of a motor vehicle then during the hours thereof, (3) enroute to and from a class or an activity which is an authorized part of the alcohol and drug rehabilitation program and at which his attendance is required, (4) enroute to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training, (5) to or from court ordered probation activities, (6) to and from a motor vehicle office for the transaction of business relating to such license or program, (7) for a three hour consecutive daytime period, chosen by the administrators of the program, on a day during which the participant is not engaged in usual employment or vocation, (8) enroute to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of the participant's household, as evidenced by a written statement to that effect from a licensed medical practitioner, and (9) enroute to and from a place, including a school, at which a child or children of the holder are cared for on a regular basis and which is necessary for the holder to maintain such holder's employment or enrollment at an accredited school, college or university or at a state approved institution of vocational or technical training. Such license or privilege shall remain in effect during the term of the suspension or revocation of the participant's license or privilege unless earlier revoked by the commissioner.

(b) The conditional license or privilege described in paragraph (a) of this subdivision shall be in a form prescribed by the commissioner, and shall have indicated thereon the conditions imposed by such paragraph.

(c) Upon receipt of a conditional license issued pursuant to this section, any order issued by a judge, justice or magistrate pursuant to paragraph (c) of subdivision two of section eleven hundred ninety-three of this article shall be surrendered to the department.

(d) The commissioner shall require applicants for a conditional license to pay a fee of seventy-five dollars for processing costs. Such fees assessed under this subdivision shall be paid to the commissioner for deposit to the general fund and shall be in addition to any fees established by the commissioner pursuant to subdivision six of this section to defray the costs of the alcohol and drug rehabilitation program.

(e) The conditional license or privileges described in this subdivision may be revoked by the commissioner, for sufficient cause including, but not limited to, failure to register in the program, failure to attend or satisfactorily participate in the sessions, conviction of any traffic infraction other than one involving parking, stopping or standing or conviction of any alcohol or drug-related traffic offense, misdemeanor or felony. In addition, the commissioner shall have the right, after a hearing, to revoke the conditional license or privilege upon receiving notification or evidence that the offender is not attempting in good faith to accept rehabilitation. In the event of such revocation, the fee described in subdivision six of this section shall not be refunded.

(f) It shall be a traffic infraction for the holder of a conditional license or privilege to operate a motor vehicle upon a public highway for any use other than those authorized pursuant to paragraph (a) of this subdivision. When a person is convicted of this offense, the sentence of the court must be a fine of not less than two hundred dollars nor more than five hundred dollars or a term of imprisonment of not more than fifteen days or both such fine and imprisonment. Additionally, the conditional license or privileges described in this subdivision shall be revoked by the commissioner upon receiving notification from the court that the holder thereof has been convicted of this offense.

(g) Notwithstanding anything to the contrary contained in a certificate of relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, any conditional license or privilege issued to a person convicted of a violation of any subdivision of section eleven hundred ninety-two of this article shall not be valid for the operation of any commercial motor vehicle. In addition, no such conditional license or privilege shall be valid for the operation of a taxicab as defined in this chapter.

(h) Notwithstanding any inconsistent provision of this chapter, the conditional license described in this subdivision may, pursuant to regulations established by the commissioner, be issued to a person whose license has been suspended pending prosecution pursuant to subparagraph seven of paragraph (e) of subdivision two of section eleven hundred

ninety-three of this article.

§ 1197. Special traffic options program for driving while intoxicated. "The program", as used in this section, shall mean the special traffic options program for driving while intoxicated, a program established pursuant to this section, and approved by the commissioner of motor vehicles. 1. Program establishment. (a) Where a county establishes a special traffic options program for driving while intoxicated, pursuant to this section, it shall receive fines and forfeitures collected by any court, judge, magistrate or other officer within that county, including, where appropriate, a hearing officer acting on behalf of the commissioner: (1) imposed for violations of subparagraphs (ii) and (iii) of paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of subdivision three of section five hundred eleven of this chapter; (2) imposed in accordance with the provisions of section eleven hundred ninety-three and civil penalties imposed pursuant to subdivision two of section eleven hundred ninety-four-a of this article, including, where appropriate, a hearing officer acting on behalf of the commissioner, from violations of sections eleven hundred ninety-two, eleven hundred ninety-two-a and findings made under section eleven hundred ninety-four-a of this article; and (3) imposed upon a conviction for: aggravated vehicular assault, pursuant to section 120.04-a of the penal law; vehicular assault in the first degree, pursuant to section 120.04 of the penal law; vehicular assault in the second degree, pursuant to section 120.03 of the penal law; aggravated vehicular homicide, pursuant to section 125.14 of the penal law; vehicular manslaughter in the first degree, pursuant to section 125.13 of the penal law; and vehicular manslaughter in the second degree, pursuant to section 125.12 of the penal law, as provided in section eighteen hundred three of this chapter. In addition, any surcharges imposed pursuant to section eighteen hundred nine-c and paragraph b of subdivision one of section eighteen hundred nine-e of this chapter shall be paid to such county in such manner and for such purposes as provided for in this section. Upon receipt of these moneys, the county shall deposit them in a separate account entitled "special traffic options program for driving while intoxicated" and they shall be under the exclusive care, custody and

control of the chief fiscal officer of each county participating in the program.

(b) Expenditures from such account shall only be made pursuant to the approval of a county program by the commissioner of motor vehicles. The chief fiscal officer of each participating county shall, on a quarterly basis, forward to the commissioner a written certificate of moneys expended from such account.

2. Program organization. (a) Where a program is established by a county, it shall be organized by a coordinator for the special traffic options program for driving while intoxicated, who shall be designated by the chief executive officer of the county, if there be one, otherwise the chairman of the governing board of the county, or in the city of New York, a person designated by the mayor thereof. Where a coordinator is designated, the coordinator shall receive such salary and expenses as the board of legislators or other governing body of such county may fix and properly account for such expenses and shall serve at the pleasure of such appointing body or officer.

(b) In counties having a county traffic safety board, the chief executive officer, if there be one, otherwise the chairman of the governing board of the county or the mayor of the city of New York, may designate the chairman of the board or a member thereof as coordinator of the program.

3. Purposes. (a) The program shall provide a plan for coordination of county, town, city and village efforts to reduce alcohol-related traffic injuries and fatalities.

(b) The program shall, where approved by the county board or other governing body, provide funding for such activities as the board or other body may approve, for the above-described purposes.

4. Duties of the coordinator; reports. (a) It shall be the duty of the coordinator to:

(1) Render annually or at the request of the county legislature or other governing body of the county, a verified account of all moneys received and expended by the coordinator or under the coordinator's direction and an account of other pertinent matters.

(2) Submit annually or upon request of the chief fiscal officer of each county participating in the program, in such manner as may be required by law, an estimate of the funds required to carry out the purposes of this section.

(3) Make an annual report to the commissioner, which shall be due on or before the first day of April of each year following the implementation of said program, and shall include the following:

a. the progress, problems and other matters related to the administration of said program; and

b. an assessment of the effectiveness of the program within the geographic area of the county participating therein and any and all recommendations for expanding and improving said program.

(b) Any annual report shall also contain the following, in a form prescribed by the commissioner:

(1) Number of arrests for violations of section eleven hundred ninety-two of this article and subdivision two of section five hundred eleven of this chapter;

(2) Number and description of dispositions resulting therefrom;

(3) Number of suspensions issued in the county for alleged refusals to submit to chemical tests;

(4) Total fine moneys returned to the participating county in connection with the program;

(5) Contemplated programs;

(6) Distribution of moneys in connection with program adminstration;

(7) Any other information required by the commissioner.

5. Functions of the coordinator. In addition to the duties of the coordinator as provided in subdivision four of this section, the coordinator shall perform the following functions:

(a) Formulate a special traffic options program for driving while intoxicated and coordinate efforts of interested parties and agencies engaged in alcohol traffic safety, law enforcement, adjudication, rehabilitation and preventive education.

(b) Receive proposals from county, town, city or village agencies or non-governmental groups for activities related to alcohol traffic safety

and to submit them to the county board of legislators or other such governing body, together with a recommendation for funding of the activity if deemed appropriate.

(c) Cooperate with and assist local officials within the county in the formulation and execution of alcohol traffic safety programs including enforcement, adjudication, rehabilitation and education.

(d) Study alcohol traffic safety problems with the county and recommend to the appropriate legislative bodies, departments or commissions, such changes in rules, orders, regulations and existing law as the coordinator may deem advisable.

(e) Promote alcohol and drug-related traffic safety education for drivers.

(f) Obtain and assemble data on alcohol-related accident arrests, convictions and accidents and to analyze, study, and consolidate such data for educational, research and informational purposes.

6. County purpose and charge. The provisions of this section and expenditures made hereunder shall be deemed a county purpose and charge.

7. Program approval. The program, including a proposed operational budget, shall be submitted by each county coordinator to the commissioner for approval. The commissioner shall consider the following before approving said program:

(a) The interrelationship of such program with existing drunk driving related programs in areas including, but not limited to, law enforcement, prosecution, adjudication and education.

(b) Avoidance of duplication of existing programs funded or operated by either the state or any municipality including, but not limited to, the alcohol and drug rehabilitation program, established under section eleven hundred ninety-six of this article.

(c) All other factors which the commissioner shall deem necessary.

8. Duties of the commissioner. (a) The commissioner shall compile the reports submitted by the county coordinators and shall issue a comprehensive report on such programs to the governor and to the legislature.

(b) The commissioner shall monitor all programs to ensure satisfactory

implementation in conjunction with the established program application goals.

9. Program cessation. When a participating county wishes to cease its program, the coordinator shall notify the commissioner in writing of the date of termination and all money remaining in the fund established by that county pursuant to subdivision one of this section on such date shall be transferred to the general fund of the state treasury. All fines and forfeitures collected pursuant to the provisions of this section on and after the termination date shall be disposed of in accordance with subdivision one of section eighteen hundred three of this chapter.

10. Program audit. The comptroller is authorized to conduct audits of any program established pursuant to this section for the purposes of determining compliance with the provisions of this section and with generally accepted accounting principles.

*** § 1198. Installation and operation of ignition interlock devices.** 1. Applicability. The provisions of this section shall apply throughout the state to each person required or otherwise ordered by a court as a condition of probation or conditional discharge to install and operate an ignition interlock device in any vehicle which he or she owns or operates.

2. Requirements. (a) In addition to any other penalties prescribed by law, the court shall require that any person who has been convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article, or any crime defined by this chapter or the penal law of which an alcohol-related violation of any provision of section eleven hundred ninety-two of this article is an essential element, to install and maintain, as a condition of probation or conditional discharge, a functioning ignition interlock device in accordance with the provisions of this section and, as applicable, in accordance with the provisions of subdivisions one and one-a of section eleven hundred ninety-three of this article; provided, however, the

court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked except as provided herein. For any such individual subject to a sentence of probation, installation and maintenance of such ignition interlock device shall be a condition of probation.

(b) Nothing contained in this section shall prohibit a court, upon application by a probation department, from modifying the conditions of probation of any person convicted of any violation set forth in paragraph (a) of this subdivision prior to the effective date of this section, to require the installation and maintenance of a functioning ignition interlock device, and such person shall thereafter be subject to the provisions of this section.

(c) Nothing contained in this section shall authorize a court to sentence any person to a period of probation or conditional discharge for the purpose of subjecting such person to the provisions of this section, unless such person would have otherwise been so eligible for a sentence of probation or conditional discharge.

3. Conditions. (a) Notwithstanding any other provision of law, the commissioner may grant a post-revocation conditional license, as set forth in paragraph (b) of this subdivision, to a person who has been convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article and who has been sentenced to a period of probation or conditional discharge, provided the person has satisfied the minimum period of license revocation established by law and the commissioner has been notified that such person may operate only a motor vehicle equipped with a functioning ignition interlock device. No such request shall be made nor shall such a license be granted, however, if such person has been found by a court to have committed a violation of section five hundred eleven of this chapter during the license revocation period or deemed by a court to have violated any condition of probation or conditional discharge set forth by the court relating to the operation of a motor vehicle or the consumption of alcohol. In exercising discretion relating to the issuance of a post-revocation conditional license pursuant to this subdivision, the commissioner shall not deny such issuance based solely upon the number of convictions for violations of any subdivision of section eleven

hundred ninety-two of this article committed by such person within the ten years prior to application for such license. Upon the termination of the period of probation or conditional discharge set by the court, the person may apply to the commissioner for restoration of a license or privilege to operate a motor vehicle in accordance with this chapter.

(b) Notwithstanding any inconsistent provision of this chapter, a post-revocation conditional license granted pursuant to paragraph (a) of this subdivision shall be valid only for use by the holder thereof, (1) enroute to and from the holder's place of employment, (2) if the holder's employment requires the operation of a motor vehicle then during the hours thereof, (3) enroute to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training, (4) to and from court ordered probation activities, (5) to and from a motor vehicle office for the transaction of business relating to such license, (6) for a three hour consecutive daytime period, chosen by the department, on a day during which the participant is not engaged in usual employment or vocation, (7) enroute to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of the participant's household, as evidenced by a written statement to that effect from a licensed medical practitioner, (8) enroute to and from a class or an activity which is an authorized part of the alcohol and drug rehabilitation program and at which participant's attendance is required, and (9) enroute to and from a place, including a school, at which a child or children of the participant are cared for on a regular basis and which is necessary for the participant to maintain such participant's employment or enrollment at an accredited school, college or university or at a state approved institution of vocational or technical training.

(c) The post-revocation conditional license described in this subdivision may be revoked by the commissioner for sufficient cause including but not limited to, failure to comply with the terms of the condition of probation or conditional discharge set forth by the court, conviction of any traffic offense other than one involving parking, stopping or standing or conviction of any alcohol or drug related offense, misdemeanor or felony or failure to install or maintain a court ordered ignition interlock device.

(d) Nothing contained herein shall prohibit the court from requiring, as a condition of probation or conditional discharge, the installation of a functioning ignition interlock device in any vehicle owned or operated by a person sentenced for a violation of subdivision two, two-a, or three of section eleven hundred ninety-two of this chapter, or any crime defined by this chapter or the penal law of which an alcohol-related violation of any provision of section eleven hundred ninety-two of this chapter is an essential element, if the court in its discretion, determines that such a condition is necessary to ensure the public safety. Imposition of an ignition interlock condition shall in no way limit the effect of any period of license suspension or revocation set forth by the commissioner or the court.

(e) Nothing contained herein shall prevent the court from applying any other conditions of probation or conditional discharge allowed by law, including treatment for alcohol or drug abuse, restitution and community service.

(f) The commissioner shall note on the operator's record of any person restricted pursuant to this section that, in addition to any other restrictions, conditions or limitations, such person may operate only a motor vehicle equipped with an ignition interlock device.

4. Proof of compliance and recording of condition. (a) Following imposition by the court of the use of an ignition interlock device as a condition of probation or conditional discharge it shall require the person to provide proof of compliance with this section to the court and the probation department or other monitor where such person is under probation or conditional discharge supervision. If the person fails to provide for such proof of installation, absent a finding by the court of good cause for that failure which is entered in the record, the court may revoke, modify, or terminate the person's sentence of probation or conditional discharge as provided under law. Good cause may include a finding that the person is not the owner of a motor vehicle if such person asserts under oath that such person is not the owner of any motor vehicle and that he or she will not operate any motor vehicle during the period of interlock restriction except as may be otherwise authorized pursuant to law. "Owner" shall have the same meaning as provided in section one hundred twenty-eight of this chapter.

(b) When a court imposes the condition specified in subdivision one of this section, the court shall notify the commissioner in such manner as the commissioner may prescribe, and the commissioner shall note such condition on the operating record of the person subject to such conditions.

5. Cost, installation and maintenance. (a) The cost of installing and maintaining the ignition interlock device shall be borne by the person subject to such condition unless the court determines such person is financially unable to afford such cost whereupon such cost may be imposed pursuant to a payment plan or waived. In the event of such waiver, the cost of the device shall be borne in accordance with regulations issued under paragraph (g) of subdivision one of section eleven hundred ninety-three of this article or pursuant to such other agreement as may be entered into for provision of the device. Such cost shall be considered a fine for the purposes of subdivision five of section 420.10 of the criminal procedure law. Such cost shall not replace, but shall instead be in addition to, any fines, surcharges, or other costs imposed pursuant to this chapter or other applicable laws.

(b) The installation and service provider of the device shall be responsible for the installation, calibration, and maintenance of such device.

6. Certification. (a) The commissioner of the department of health shall approve ignition interlock devices for installation pursuant to subdivision one of this section and shall publish a list of approved devices.

(b) After consultation with manufacturers of ignition interlock devices and the national highway traffic safety administration, the commissioner of the department of health, in consultation with the commissioner and the office of probation and correctional alternatives, shall promulgate regulations regarding standards for, and use of, ignition interlock devices. Such standards shall include provisions for setting a minimum and maximum calibration range and shall include, but not be limited to, requirements that the devices:

(1) have features that make circumventing difficult and that do not interfere with the normal or safe operation of the vehicle;

(2) work accurately and reliably in an unsupervised environment;

(3) resist tampering and give evidence if tampering is attempted;

(4) minimize inconvenience to a sober user;

(5) require a proper, deep, lung breath sample or other accurate measure of blood alcohol content equivalence;

(6) operate reliably over the range of automobile environments;

(7) correlate well with permissible levels of alcohol consumption as may be established by the sentencing court or by any provision of law; and

(8) are manufactured by a party covered by product liability insurance.

(c) The commissioner of the department of health may, in his discretion, adopt in whole or relevant part, the guidelines, rules, regulations, studies, or independent laboratory tests performed on and relied upon for the certification or approval of ignition interlock devices by other states, their agencies or commissions.

7. Use of other vehicles. (a) Any requirement of this article or the penal law that a person operate a vehicle only if it is equipped with an ignition interlock device shall apply to every motor vehicle operated by that person including, but not limited to, vehicles that are leased, rented or loaned.

(b) No person shall knowingly rent, lease, or lend a motor vehicle to a person known to have had his or her driving privilege restricted to vehicles equipped with an ignition interlock device unless the vehicle is so equipped. Any person whose driving privilege is so restricted shall notify any other person who rents, leases, or loans a motor vehicle to him or her of such driving restriction.

(c) A violation of paragraph (a) or (b) of this subdivision shall be a misdemeanor.

8. Employer vehicle. Notwithstanding the provisions of subdivision one and paragraph (d) of subdivision nine of this section, if a person is required to operate a motor vehicle owned by said person's employer in the course and scope of his or her employment, the person may operate that vehicle without installation of an approved ignition interlock device only in the course and scope of such employment and only if the

employer has been notified that the person's driving privilege has been restricted under the provisions of this article or the penal law and the person whose privilege has been so restricted has provided the court and probation department with written documentation indicating the employer has knowledge of the restriction imposed and has granted permission for the person to operate the employer's vehicle without the device only for business purposes. The person shall notify the court and the probation department of his or her intention to so operate the employer's vehicle. A motor vehicle owned by a business entity which business entity is all or partly owned or controlled by a person otherwise subject to the provisions of this article or the penal law is not a motor vehicle owned by the employer for purposes of the exemption provided in this subdivision. The provisions of this subdivision shall apply only to the operation of such vehicle in the scope of such employment.

9. Circumvention of interlock device. (a) No person whose driving privilege is restricted pursuant to this article or the penal law shall request, solicit or allow any other person to blow into an ignition interlock device, or to start a motor vehicle equipped with the device, for the purpose of providing the person so restricted with an operable motor vehicle.

(b) No person shall blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is so restricted.

(c) No person shall tamper with or circumvent an otherwise operable ignition interlock device.

(d) No person subject to a court ordered ignition interlock device shall operate a motor vehicle without such device.

(e) In addition to any other provisions of law, any person convicted of a violation of paragraph (a), (b), (c), or (d) of this subdivision shall be guilty of a Class A misdemeanor.

10. Warning label. The department of health shall design a warning label which the manufacturer shall affix to each ignition interlock device upon installation in the state. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the

device is guilty of a misdemeanor and may be subject to civil liability.

* NB Repealed September 1, 2027

§ 1198-a. Special procedures and disposition involving alcohol and substance abuse assessment and treatment. 1. Definitions. For purposes of this section, the following terms shall have the following meanings:

(a) "Alcohol and substance abuse professional" shall mean persons credentialed by the office of alcoholism and substance abuse services to provide alcohol and substance abuse services pursuant to the mental hygiene law and persons licensed by the state education department in an appropriate health field, including licensed clinical social worker, licensed master social worker, licensed mental health counselor, nurse practitioner, physician, physician's assistant, psychiatrist, psychologist, and registered nurse.

(b) "Licensed agency" shall mean an agency licensed by the office of alcoholism and substance abuse services to provide alcohol and substance abuse services pursuant to the mental hygiene law.

2. Procedure. (a) Mandatory screening; when authorized. Upon the arraignment of, or at the discretion of the court, prior to the sentencing of any person who (i) at arraignment is charged with or prior to sentencing convicted of a first violation of operating a motor vehicle in violation of subdivision one, two or three or paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article while such person has less than .15 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article, or in violation of subdivision four of such section eleven hundred ninety-two, or (ii) has refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this article, the court shall order such person to submit to screening for alcohol or substance abuse and dependency using a standardized written screening instrument developed by the office of alcoholism and substance abuse services, to be administered by an alcohol or substance abuse professional.

(b) Mandatory assessment; when authorized. The court shall order a

defendant to undergo a formal alcohol or substance abuse and dependency assessment by an alcohol or substance abuse professional or a licensed agency: (i) when the screening required by paragraph (a) of this subdivision indicates that a defendant is abusing or dependent upon alcohol or drugs; (ii) following the arraignment of any person charged with or, at the discretion of the court, prior to the sentencing of any person convicted of a violation of subdivision one, two, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 of the penal law or of aggravated vehicular assault, as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 of the penal law or of aggravated vehicular homicide, as defined in section 125.14 of such law within the preceding five years or after having been convicted of a violation of any subdivision of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 of the penal law or of aggravated vehicular assault, as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 of the penal law or of aggravated vehicular homicide, as defined in section 125.14 of such law, two or more times within the preceding ten years; or (iii) following the arraignment of any person charged with or, at the discretion of the court, prior to the sentencing of any person convicted of operating a motor vehicle in violation of subdivision two or three or paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article while such person has .15 of one per centum or more by weight of alcohol in the person's blood as shown by a chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article or in violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article.

(c) Mandatory assessment; procedure. The assessment ordered by a court pursuant to this section shall be performed by an alcohol or substance abuse professional or a licensed agency which shall forward the results,

in writing, to the court and to the defendant or his or her counsel within thirty days of the date of such order.

3. Authorized disposition. When a sentence of probation or a conditional discharge is imposed upon a person who has been required to undergo an alcohol or substance abuse and dependency assessment pursuant to subdivision two of this section and where such assessment indicates that such person is in need of treatment for alcohol or substance abuse or dependency, the court shall require, as a condition of such sentence, that such person participate in and successfully complete such treatment. Such treatment shall be provided by an alcohol or substance abuse professional or a licensed agency.

4. Any case wherein a court has accepted a plea pursuant to the provisions of subparagraph (ii) of paragraph (a) of subdivision ten of section eleven hundred ninety-two of this article and such plea includes as a condition thereof that the defendant attend and complete the alcohol and drug rehabilitation program established pursuant to section eleven hundred ninety-six of this article, including any assessment and treatment required thereby, shall be deemed to be in compliance with the provisions of this section.

5. The chief administrator of the office of court administration shall make available to all courts in this state with jurisdiction in criminal cases a list of alcohol and substance abuse professionals and licensed agencies as provided by the office of alcoholism and substance abuse services pursuant to subdivision (g) of section 19.07 of the mental hygiene law.

6. Confidentiality of records. (a) The records and content of all screenings, assessments and treatment conducted pursuant to this section, including the identity, diagnosis and prognosis of each individual who is the subject of such records, and including any statements or admissions of such individual made during the course of such screenings, assessments and treatment, shall be confidential, shall not be disclosed except as authorized by this subdivision, and shall not be entered or received as evidence at any civil, criminal or

administrative trial, hearing or proceeding. No person, other than a defendant to whom such records are disclosed, may redisclose such records.

(b) Consistent with Section 290 dd-2 of Title 42 of the United States Code, as such law may, from time to time, be amended, such records and content may only be disclosed as follows:

(i) to a court for the sole purpose of requiring a defendant charged with or convicted of a violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this article to undergo alcohol or substance abuse or dependency assessment or treatment;

(ii) to the defendant or his or her authorized representative; and

(iii) to medical personnel to the extent necessary to meet a bona fide medical emergency.

7. Effect of completion of treatment. Except as provided in subparagraph nine of paragraph (b) of subdivision two of section eleven hundred ninety-three or in subparagraph three of paragraph (d) of subdivision two of section eleven hundred ninety-four of this article, upon successful completion of treatment ordered pursuant to this section as certified by the alcohol or substance abuse professional or licensed agency which provided such treatment, the defendant may apply to the commissioner on a form provided for that purpose, for the termination of the suspension or revocation order issued as a result of the defendant's conviction. In the exercise of discretion, upon receipt of such application, and upon payment of any civil penalties for which the defendant may be liable, the commissioner is authorized to terminate such order or orders and return the defendant's license or reinstate the privilege of operating a motor vehicle in this state. However, the commissioner shall not issue any new license nor restore any license where said issuance or restoration is prohibited by subdivision two of section eleven hundred ninety-three of this article.

§ 1199. Driver responsibility assessment. 1. In addition to any fines, fees, penalties and surcharges authorized by law, any person convicted of a violation of any subdivision of section eleven hundred ninety-two

of this article, or any person found to have refused a chemical test in accordance with section eleven hundred ninety-four of this article not arising out of the same incident as a conviction for a violation of any of the provisions of section eleven hundred ninety-two of this article, shall become liable to the department for payment of a driver responsibility assessment as provided in this section.

2. The amount of the driver responsibility assessment under this section shall be two hundred fifty dollars per year for a three-year period.

3. Upon receipt of evidence that a person is liable for the driver responsibility assessment required by this section, the commissioner shall notify such person by first class mail to the address of such person on file with the department or at the current address provided by the United States postal service of the amount of such assessment, the time and manner of making required payments, and that failure to make payment shall result in the suspension of his or her driver's license or privilege of obtaining a driver's license.

4. If a person shall fail to pay any driver responsibility assessment as provided in this section, the commissioner shall suspend such person's driver's license or privilege of obtaining a license. Such suspension shall remain in effect until any and all outstanding driver responsibility assessments have been paid in full.

5. The provisions of this section shall also be applicable to any person convicted of any violation of section forty-nine-a of the navigation law, any person convicted of a violation of section 25.24 of the parks, recreation and historic preservation law, or any person found to have refused a chemical test in accordance with the applicable provisions of either the navigation law or the parks, recreation and historic preservation law not arising out of the same incident as such conviction.

ARTICLE 32

STOPPING, STANDING, AND PARKING

Section 1200. Basic rules.
1201. Stopping, standing, or parking outside of business or residence districts.
1202. Stopping, standing, or parking prohibited in specified places.
1203. Additional parking regulations.
1203-a. Parking permits for handicapped persons.
1203-b. Parking spaces; handicapped.
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1203-f. Handicapped parking enforcement.
1203-g. Establishment of the handicapped parking education program.
1203-h. Metered parking waiver for certain disabilities.
1204. Officers authorized to remove illegally stopped vehicles.

§ 1200. Basic rules. (a) When stopping is prohibited by this article, or by local law, ordinance, order, rule or regulation, no person shall stop, stand or park a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(b) When standing is prohibted by this article, or by local law, ordinance, order, rule or regulation, no person shall stand or park a vehicle, whether occupied or not, but may stop temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(c) When parking is prohibited by this article, or by local law, ordinance, order, rule or regulation, no person shall park a vehicle, whether occupied or not, but may stop or stand temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

(d) When official signs have been posted prohibiting, restricting or limiting the stopping, standing or parking of vehicles on any highway, no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs.

§ 1201. Stopping, standing, or parking outside of business or residence districts. (a) Upon any highway outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such highway.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

§ 1202. Stopping, standing or parking prohibited in specified places. (a) Except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

1. Stop, stand or park a vehicle:

a. On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street;

b. On a sidewalk;

c. Within an intersection, except when permitted by official signs or parking meters on the side of a highway opposite a street which intersects but does not cross such highway;

d. On a cross walk;

e. Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different distance is indicated by official signs, markings or parking meters;

f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel, unless otherwise indicated by official signs, markings or parking meters;

h. On any railroad tracks;

i. In the area between roadways of a divided highway, including crossovers, except in an emergency;

j. On a state expressway highway or state interstate route highway, including the entrances thereto and exits therefrom, which are a part thereof, except in an emergency;

k. Engage in the retail sale of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians on any highway having a speed limit in excess of thirty miles per hour. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off such highway, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer;

l. In a space designated as provided in this subparagraph for the exclusive purpose of charging an electric vehicle at an electric vehicle charging station, unless such vehicle is an electric vehicle connected to such charging station. Provided, however, that an electric motor

vehicle disconnected from the electric vehicle charging station for no more than thirty continuous minutes while stopped, standing or parked in such designated space shall not be in violation of this subparagraph. Parking spaces designated for the exclusive purpose of charging an electric vehicle at an electric vehicle charging station shall be clearly identified, and such designation shall include conspicuous and permanently installed above grade signs which shall be positioned from the parking space surface at a height of not less than five feet nor more than seven feet and which identify such space as an electric vehicle charging station, indicate that such space is only for electric vehicle charging and include any day or time restrictions. For the purposes of this subparagraph, the term "electric vehicle" shall mean a motor vehicle that is propelled at least in part by an electric motor and associated power electronics which provide acceleration torque to the drive wheels sometime during normal vehicle operation, and that draws electricity from a battery or hydrogen fuel cell that is capable of being recharged from an external source of electricity, such that the external source of electricity cannot be connected to the vehicle while the vehicle is in motion, and the term "electric vehicle charging station" shall mean the equipment needed to convey electric power from the electric grid or another power source to an onboard motor vehicle energy storage system.

2. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

a. In front of a public or private driveway;

b. Within twenty feet of a cross walk at an intersection, unless a different distance is indicated by official signs, markings or parking meters;

c. Within thirty feet upon the approach to any flashing signal, stop or yield sign or traffic-control signal located at the side of the roadway, unless a different distance is indicated by official signs, markings or parking meters;

d. Within twenty feet of the driveway entrance to any fire station and, when on the side of the street opposite to the entrance of any fire station, within seventy-five feet of said entrance, when properly signposted, unless a different distance is indicated by official signs, markings or parking meters.

e. Alongside or obstructing a curb area which has been cut down, lowered or constructed so as to provide accessibility to the sidewalk.

3. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers, within fifty feet of the nearest rail of a railroad crossing, unless a different distance is indicated by official signs, markings or parking meters.

(b) 1. No person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of emergency, unless a different distance is indicated by official signs, markings or parking meters.

2. No person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of emergency, when such vehicle impairs or hinders the access of a fire vehicle to a fire hydrant while such fire vehicle is engaged in an emergency operation, unless a different distance is indicated by official signs, markings, parking meters or the provisions of any local law, rule, or ordinance.

(c) No person shall move a vehicle not lawfully under his control into any prohibited area or away from a curb such distance as is unlawful.

§ 1203. Additional parking regulations. (a) Except where angle parking is authorized, every vehicle stopped, standing, or parked wholly upon a two-way roadway shall be so stopped, standing, or parked with the right-hand wheels of such vehicle parallel to and within twelve inches

of the right-hand curb or edge of the roadway.

(b) Except where angle parking is authorized, every vehicle stopped, standing, or parked wholly upon a one-way roadway shall be so stopped, standing, or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or edge of the roadway, or its left-hand wheels within twelve inches of the left-hand curb or edge of the roadway.

(c) Except where angle parking is authorized, every vehicle stopped, standing, or parked partly upon a roadway shall be so stopped, standing, or parked parallel to the curb or edge of the roadway. On a one-way roadway such vehicle shall be facing in the direction of authorized traffic movement; on a two-way roadway such vehicle shall be facing in the direction of authorized traffic movement on that portion of the roadway on which the vehicle rests.

(d) No person regularly engaged in the sale or repair of vehicles shall park a vehicle upon any highway for the purpose of:

1. Displaying such vehicle for sale.

2. Greasing or repairing such vehicle, except for such repairs as may be necessitated by an emergency.

§ 1203-a. Parking permits for handicapped persons. 1. The commissioner shall distribute special vehicle identification parking permits to the governing bodies of all cities, towns and villages in the state. Notwithstanding any local law or ordinance to the contrary, such permits shall entitle any vehicle displaying such permit to park in any area in any city, town or village of the state which has been designated by such city, town or village or pursuant to the provisions of section twelve hundred three-c of this article as a place for parking for persons with disabilities. The design, period of validity, and procedures for reissuance of such permits shall be as determined by the commissioner. A city, town or village issuing a permit pursuant to this subdivision or subdivision three of this section shall indelibly inscribe or otherwise mark, on the face of such permit, the last three digits of the

identification number of the driver's license or non-driver identification card of the person to whom the permit is issued. The governing bodies of cities, towns and villages in the state shall appoint an issuing agent to issue such permits. Any person issued a permit pursuant to this section who holds a driver's license or non-driver identification card shall make the last three digits of such license or identification card available to an issuing agent at the time of permit issuance or renewal by presenting such license or identification card to such issuing agent. Any person issued a permit pursuant to this section who holds a driver's license or non-driver identification card shall carry and make available to a law enforcement officer upon demand, or as soon as practicable thereafter, his or her driver's license or non-driver identification card which shall be presumptive evidence of the validity of his or her special vehicle identification parking permit. Failure to make available such driver's license or non-driver identification card upon demand shall not be deemed a violation. The permits shall be issued to:

(i) any resident of New York state who is a severely disabled person, as defined in subdivision four of section four hundred four-a of this chapter, upon application of such person or such person's parent or guardian, provided, however, that an issuing agent shall issue permits only to residents of the city, town or village in which such issuing agent is located, except that, an issuing agent, in their discretion, may issue a permit to a severely disabled person who is not a resident of the city, town, or village in which such issuing agent is located where such person resides in a city, town, or village in which the governing body has not appointed an issuing agent; and an issuing agent, in their discretion, may issue a temporary special vehicle identification parking permit, as authorized by subdivision three of this section, to a person who is temporarily unable to ambulate without the aid of an assisting device, as certified by any healthcare practitioner authorized to certify that an individual is severely disabled pursuant to subdivision four of section four hundred four-a of this chapter, who resides in a city, town, or village in which the issuing agent does not issue temporary special vehicle identification parking permits, or who is not a resident of the United States and is temporarily visiting the state; or

(ii) any state facility, or agency licensed by the state of New York or any of its political subdivisions, that operates a motor vehicle for purposes of transporting handicapped persons, upon the application of such a facility or agency.

For the purposes of paragraph (i) of this subdivision, such permit shall be for use exclusively in a vehicle in which the person to whom it has been issued is being transported and such permit shall not be transferable and shall be forfeited if presented by any other person. Any abuse by any person, facility or agency to whom such permit has been issued of any privilege, benefit, precedence or consideration granted pursuant to the issuance of such permit, shall be sufficient cause for revocation of said permit.

1-a. Any resident of New York state who is a severely disabled person, as defined in subdivision four of section four hundred four-a of this chapter, shall not be required to provide an updated medical certification or additional medical documents upon application for renewal of a permit issued pursuant to this section. For the purposes of this subdivision, the term "permit" shall not include a temporary special vehicle identification parking permit issued pursuant to this section to a person who is temporarily unable to ambulate without the aid of an assisting device.

2. The special vehicle identification parking permit issued by the commissioner shall be recognized statewide and, except for a permit issued pursuant to and used subject to the limitations of subdivision three of this section is the only valid permit for the purpose of preserving parking spaces for the handicapped.

3. Notwithstanding any provision of this chapter to the contrary, any municipality may issue a temporary special vehicle identification parking permit to any person who is temporarily unable to ambulate without the aid of an assisting device, as certified by any healthcare practitioner authorized to certify that an individual is severely disabled pursuant to subdivision four of section four hundred four-a of this chapter. Such temporary special vehicle identification parking

permit shall be valid for not more than six months and shall be recognized statewide.

4. A person who knowingly and wilfully with the intent to deceive makes a false statement or gives information which such individual knows to be false to a public official to obtain a parking permit for handicapped persons or to prevent the marking on such permit of the last three digits of a driver's license or non-driver identification card held by such person, in addition to any other penalty provided by law, shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars.

§ 1203-b. Parking spaces; handicapped. 1. Parking spaces for the handicapped as provided for in sections one thousand two hundred three-a and one thousand two hundred three-c of this chapter shall also be extended to a motor vehicle registered in accordance with section four hundred four-a of this chapter. A handicapped permit issued in accordance with the provisions of section one thousand two hundred three-a of this chapter shall entitle the driver to park in such parking spaces. Parking spaces for the handicapped shall be those parking spaces accorded to a holder of a handicapped parking permit provided in accordance with section one thousand two hundred three-a or as provided in section four hundred four-a of this chapter.

2. It shall be a violation for any person to stop, stand or park a vehicle in any area designated as a place for handicapped parking unless the vehicle bears a permit issued under section one thousand two hundred three-a or a registration issued under section four hundred four-a of this chapter and such vehicle is being used for the transportation of a severely disabled or handicapped person. This subdivision shall not apply to a violation of section twelve hundred three-c of this chapter.

§ 1203-c. Off street parking spaces for the handicapped. 1. Any person, firm or corporation owning a shopping center or facility with at least five separate retail stores and at least twenty off street parking

spaces which are provided for use by the shopping public must designate as only for the handicapped and clearly mark for use by the handicapped a minimum of five percent of such parking spaces or ten such spaces whichever is less. These spaces must be located as close as reasonably practicable to the shopping center facility and reasonably distributed so as to provide convenient access for use by handicapped drivers. Such parking spaces are to be used either by handicapped drivers displaying a special municipal parking permit (as defined in section twelve hundred three-a of this chapter and distributed by the commissioner of motor vehicles to local governing bodies to be issued to handicapped persons who reside in such locality) or by motor vehicles registered in accordance with section four hundred four-a of this chapter and being used for the transportation of a handicapped person.

2. (a) The parking spaces designated pursuant to the provisions of this section shall be clearly identified for use by handicapped persons which designation shall include conspicuous and permanently installed above grade signs which display the international symbol of access and which shall be positioned from the parking space surface at a height of not less than five feet nor more than seven feet and may include the use of blue painted lines or markings. Such parking spaces also may be marked as tow-away zones.

(b) Whenever a person, firm or corporation creates an off-street parking lot or parking garage, or repaves or repaints more than one-half of the total number of parking spaces in an off-street parking lot or parking garage, which contains designated handicapped parking spaces, or creates designated handicapped parking spaces in an off-street parking lot or parking garage, or repaves or repaints more than one-half of the total number of designated handicapped parking spaces in an off-street parking lot or parking garage, the size of designated handicapped parking spaces and designated handicapped parking space access aisles each shall be at least eight feet wide. Such access aisles also shall be (i) clearly designated with conspicuous and permanently installed above grade signs which shall read "No Parking Anytime" and which shall be positioned from the access aisle surface at a height of not less than five feet nor more than seven feet, and (ii) marked with diagonal stripes.

3. A violation of this section by any person, firm or corporation owning a shopping center or facility with at least five separate retail stores and at least twenty off street parking spaces which are provided for use by the shopping public who fails to provide spaces only for the handicapped and clearly marked for use by the handicapped in accordance with this section, shall be punishable by a fine up to two hundred fifty dollars.

4. Except as otherwise provided by local law which imposes a larger maximum fine, any person who stops, stands or parks in spaces clearly marked for use by the handicapped either: (a) in accordance with this section; or (b) in the parking area of a shopping center or facility with at least one but less than five separate retail stores and at least twenty off street parking spaces provided for use by the shopping public, in accordance with the state fire prevention and building code, without a special vehicle identification parking permit, a special municipal parking permit or whose motor vehicle is not registered in accordance with section four hundred four-a of this chapter and being used for the transportation of a handicapped person; or with such permit or registration and such person is not the one to whom the permit or registration was issued or is not transporting the person issued the permit or registration; or any person who parks in a handicapped parking access aisle; shall be subject to a fine of not less than fifty dollars nor more than seventy-five dollars for the first offense and seventy-five to one hundred fifty dollars for the second offense occurring within a period of two years within the same municipality. The arresting or ticketing officer shall issue a summons to violators of this section. A ticketing officer issuing a summons pursuant to this section may provide for the removal and storage of a motor vehicle illegally parked in a handicapped parking space, or a handicapped parking access aisle.

5. As used in this section, the term "handicapped" shall also include a "severely disabled person" as defined in section four hundred four-a of this chapter.

6. Notwithstanding any other state or local law to the contrary, a state, county or municipal law enforcement officer seeking to enforce subdivision four of this section may enter onto the parking lot of any shopping center or facility as described in subdivision one or four of this section or any other parking lot as described in the state fire prevention and building code, which is required to contain accessible and designated parking spaces for people with disabilities, regardless of the existence or absence of any state or local law or rule otherwise permitting or restricting such access for such law enforcement officer.

§ 1203-d. Out-of-state vehicles bearing special identification. Motor vehicles displaying a special license plate or parking permit issued by any other state, district, territory or other governmental entity subject to the laws of the United States, or a foreign country for the purpose of granting special parking privileges to people with disabilities shall be accorded the special parking privileges allowed pursuant to the provisions of sections twelve hundred three-b and twelve hundred three-c of this article.

§ 1203-e. Dumping or plowing snow onto parking places for handicapped prohibited. 1. Except as otherwise provided in subdivision two of this section, any person who knowingly dumps or shovels snow onto a parking place for handicapped persons rendering such place unusable for parking purposes shall be subject to a fine of twenty-five dollars for the first offense and a fine not to exceed one hundred dollars for every offense thereafter. However, a local or municipal government may, by local law or ordinance, establish fines higher than those established in this subdivision, but in no instance shall the fines exceed fifty dollars for the first offense or two hundred dollars for the second or subsequent offense.

2. Notwithstanding the provisions of subdivision one of this section, any firm, corporation, partnership or association engaged in the conduct of any business, trade or commerce or in the furnishing of any service in this state who knowingly dumps, shovels or plows snow onto a parking

place for handicapped persons rendering such place unusable for parking purposes shall be subject to a fine of one hundred twenty-five dollars for the first offense and a fine not to exceed two hundred fifty dollars for every offense thereafter. However, a local or municipal government may, by local law or ordinance, establish fines higher than those established in this subdivision, but in no instance shall the fines exceed two hundred fifty dollars for the first offense or four hundred fifty dollars for the second or subsequent offense.

§ 1203-f. Handicapped parking enforcement. 1. A county, city, town or village may, by adoption of a local law or ordinance, establish a handicapped parking violation unit to assist in the enforcement of handicapped parking laws or ordinances. Persons appointed to such unit shall be volunteers, shall serve without compensation, and shall be authorized to provide evidence of violations of handicapped parking laws or ordinances to the appropriate local enforcement authority. Such evidence may include photographing a violation, provided that such photograph is taken and handled in compliance with the requirements of this section.

2. A local law or ordinance enacted in accordance with the provisions of this section shall:

(a) establish a training program of no less than two hours in length and require each volunteer to participate in and complete such training program;

(b) provide for the assignment of an identification number to each volunteer, and provide official identification and equipment to assist volunteer personnel in the conduct of their duties;

(c) establish uniform procedures for volunteers to follow in determining whether a violation has occurred;

(d) establish procedures for the uniform reporting of violations, which reporting shall include the identification number of the volunteer making the report;

(e) if such local law or ordinance provides for the taking of photographs of violations, (i) grant only the enforcement agency the authority to process or to contract for the processing of all film

submitted by volunteers; (ii) require any photographs evidencing a violation to be available for inspection in any proceeding to adjudicate the liability for such violation; (iii) provide that a certificate, sworn to or affirmed by a technician employed by the locality in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs produced from film submitted by volunteers, shall be prima facie evidence of the facts contained therein; and (iv) prohibit the use of such a photograph for any purpose other than as evidence of a handicapped parking violation; and

(f) provide the following with respect to notices of violation: (i) a notice of violation shall be sent by first class mail to each person alleged to be liable as an owner for a violation of a handicapped parking law or ordinance. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein; (ii) a notice of violation shall reference the law which was allegedly violated, and shall contain the name and address of the person alleged to be liable as an owner for a violation of a handicapped parking law or ordinance, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation, and the identification number of the volunteer who recorded the violation; (iii) a notice of violation shall contain information advising the person charged of the manner and the time in which he or she may contest the violation alleged in the notice, and shall also contain a warning to advise the persons 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.

§ 1203-g. Establishment of the handicapped parking education program. 1. Every county and the city of New York shall establish a separate handicapped parking education program. Each program shall be organized by a coordinator for handicapped parking education and advocacy, who shall be designated by the chief executive officer of the county, if there be one, otherwise by the chair of the governing board of the county, and in the city of New York, a person designated by the mayor thereof.

2. The handicapped parking education program shall be established for the purposes of providing education, advocacy and increased awareness of handicapped parking laws. The program shall provide funding for activities such as public service announcements, public education and awareness campaigns, distribution of literature, and any other activities that are consistent with such purposes.

3. It shall be the duty of the coordinator to: (a) render annually or at the request of the county legislature or other governing body of the county, a verified account of all moneys received and expended by the coordinator or under the coordinator's direction and an account of other pertinent matters; and (b) make a biennial report to the commissioner, which shall be due on the first day of April every second year following implementation of the program and shall include an assessment of the effectiveness of the program, recommendations for expanding and improving the program and any problems or other matters related to the administration of the program. Such report shall also be made available to the temporary president of the senate and the speaker of the assembly.

4. Every county and the city of New York that establishes a handicapped parking education program shall establish a separate handicapped parking education fund in the custody of the chief fiscal officer of each such county or city, by April first, two thousand, which shall consist of moneys granted to such county or city pursuant to section eighteen hundred nine-b of this chapter. No provision of law shall be deemed to preclude a county or the city of New York from receiving funds from other sources to be deposited in the handicapped parking education fund, provided such funds are used in a manner and for purposes consistent with this section. The moneys of such fund shall be disbursed to provide education, advocacy and increased awareness of handicapped parking laws and may be used to execute contracts with private organizations for such purposes. Such contracts shall be awarded upon competitive bids after the issuance of requests for proposal.

§ 1203-h. Metered parking waiver for certain disabilities. 1. The commissioner shall distribute metered parking waiver permits to the governing bodies of all cities, villages and towns; provided, however, that the commissioner shall not distribute such permits to cities having a population of one million or more which issue special vehicle identification parking permits pursuant to paragraph fifteen of subdivision a of section twenty-nine hundred three of the New York city charter which waive the payment of metered parking fees. Notwithstanding any local law or ordinance to the contrary, such permits shall entitle any vehicle displaying such waiver permit to park at any metered parking space in any city, village or town of the state and such permits shall waive metered parking fees imposed by such city or village pursuant to paragraph nine of subdivision (a) of section sixteen hundred forty of this chapter or imposed by such town pursuant to paragraph nine of subdivision (a) of section sixteen hundred sixty of this chapter. Provided, however, that such permit shall not waive any time limit at a metered parking space imposed pursuant to paragraph nine of subdivision (a) of section sixteen hundred forty of this chapter or paragraph nine of subdivision (a) of section sixteen hundred sixty of this chapter that is applicable to a motor vehicle parking in such metered parking space without such permit.

2. The application, permit design, period of validity, and procedures for reissuance of such waiver permits shall be as determined by the commissioner.

3. Such waiver permits shall be issued by issuing agents appointed pursuant to subdivision one of section twelve hundred three-a of this article by governing bodies of cities, villages and towns having a population of less than one million to persons with disabilities who:

(a) are residents of New York state; and

(b) are residents of the city, town or village in which such issuing agent is located, except that, an issuing agent, in his or her discretion, may issue a permit to a severely disabled person who is not a resident of the city, town, or village in which such issuing agent is located where such person resides in a city, town, or village in which the governing body has not appointed an issuing agent; and

(c) hold a valid driver's license issued by New York state; and

(d) are severely disabled persons, as defined in subdivision four of section four hundred four-a of this chapter, whose severe disability, as certified by any healthcare practitioner authorized to certify that an individual is severely disabled pursuant to that subdivision, limits one or more of the following:

(i) fine motor control in both hands;

(ii) ability to reach or access a parking meter due to use of a wheelchair or other ambulatory device; or

(iii) ability to reach a height of forty-two inches from the ground due to the lack of finger, hand or upper extremity strength or mobility.

4. For the purposes of this section, such waiver permit shall be for use exclusively in a vehicle when the person to whom it has been issued is driving and unaccompanied by a person able to put payment into a parking meter. Such permit shall not be transferable and shall be forfeited if used by any other person. Any abuse by any person to whom such waiver permit has been issued shall be sufficient cause for revocation of said permit.

5. The special metered parking waiver permit issued by the commissioner shall be recognized statewide and is the only valid permit, other than a special vehicle identification parking permit issued by cities having a population of one million or more pursuant to paragraph fifteen of subdivision a of section twenty-nine hundred three of the New York city charter, for the waiver of metered parking fees for certain severely disabled drivers.

6. A person who knowingly and willfully, with the intent to deceive, makes a false statement or gives information which such individual knows to be false to a public official to obtain a metered parking waiver permit in addition to any other penalty provided by law, shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars.

§ 1204. Officers authorized to remove illegally stopped vehicles. (a)

Whenever any police officer, or in a city having a population in excess of one million any person designated by the commissioner of traffic of such city or on highways under the jurisdiction of the New York state thruway authority, the office of parks and recreation, a county park commission, a parkway authority, a bridge authority or a bridge and tunnel authority any person designated by such office, commission or authority, finds a vehicle standing upon a highway in violation of any of the foregoing provisions of this article such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same to a position off the paved or main-traveled part of such highway.

(b) 1. Whenever any police officer, or in a city having a population in excess of one million any person designated by the commissioner of traffic of such city or on highways under the jurisdiction of the New York state thruway authority, the office of parks and recreation, a county park commission, a parkway authority, a bridge authority or a bridge and tunnel authority any person designated by such office, commission or authority finds a vehicle unattended where it constitutes an obstruction to traffic, or any place where stopping, standing or parking is prohibited, such officer is hereby authorized to provide for the removal of such vehicle, semitrailer or trailer to a garage, automobile pound or other place of safety.

2. In any city with a population of one million or more, whenever any police officer, or any person designated by the commissioner of traffic, finds a semitrailer or trailer without a tractor or towing vehicle attached, parked or unattended on any city street, such officer or person designated by the commissioner of traffic is hereby authorized to provide for the removal of such semitrailer or trailer to a garage, automobile pound or other place of safety.

(c) The owner or other person lawfully entitled to the possession of such vehicle may be charged with a reasonable cost for removal and storage, payable before the vehicle is released.

(d) No police officer or other public, state or municipal employee shall release a motor vehicle impounded because of any traffic or parking violation to any person who does not have a currently valid driver's license and an insurance identification card or other

acceptable evidence indicating current insurance coverage on such vehicle. The provisions of this subdivision with respect to insurance coverage shall not apply to a motor vehicle which will not be moved under its own power but will be transported by a tow truck or upon another vehicle, provided that the registration for such impounded vehicle has been surrendered to the commissioner and proof of such surrender is presented to the police officer or other public, state or municipal employee.

ARTICLE 33
MISCELLANEOUS RULES

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§ 1210. Unattended motor vehicle. (a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the vehicle, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway, provided, however, the provision for removing the key from the vehicle shall not require the removal of keys hidden from sight about the vehicle for convenience or emergency.

(b) A driver may, for the purpose of getting away from the place of standing, move another vehicle which is so placed he cannot get his vehicle out; provided, however, that immediately thereafter he shall reset the brake and, if on a grade, turn the front wheels to the curb or side of the highway. This privilege is subject to the limitation set forth in subdivision (e) of section twelve hundred two.

(c) Towing agencies, which remove vehicles unlawfully parked on private property at request of the owner of the premises and without the written consent of the owner of the vehicle, shall immediately notify the local police station house having jurisdiction over the area where such vehicle was unlawfully parked, of the description of the car which was removed, and the time of removal.

§ 1211. Limitations on backing. (a) The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway.

(c) the driver of a motor vehicle engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians shall not back the same to make or attempt to make a sale.

§ 1212. Reckless driving. (a) Reckless driving shall mean driving or using any motor vehicle, motorcycle or any other vehicle propelled by any power other than muscular power or any appliance or accessory thereof in a manner which unreasonably interferes with the free and proper use of the public highway or any parking lot, or unreasonably endangers users of the public highway or any parking lot. Reckless driving is prohibited. Every person violating this provision shall be guilty of a misdemeanor.

(b) As used in this section, "parking lot" shall mean any area or areas of private property, including a driveway, near or contiguous to and provided in connection with premises and used as a means of access to and egress from a public highway to such premises and having a capacity for the parking of four or more motor vehicles. The provisions of this section shall not apply to any area or areas of private property comprising all or part of property on which is situated a one or two family residence.

§ 1213. Obstruction to driver's view or driving mechanism. (a) No person shall drive a motor vehicle when it is so loaded, or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle. In no event shall there be more than three persons in the front seat of any vehicle, except where such seat has been constructed to accommodate more than three persons and there is eighteen inches of seating capacity for each passenger or occupant in said front seat.

(b) No passenger in a vehicle shall ride in such a position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

§ 1214. Opening and closing vehicle doors. No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

§ 1215. Driving on mountain highways. The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold such motor vehicle under control and as near the right-hand edge of the highway as reasonably possible and, upon approaching any curve where the view is obstructed within a distance of two hundred feet along the highway, shall give audible warning with the horn of such motor vehicle.

§ 1216. Coasting prohibited. The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of such vehicle in neutral, nor with the clutch disengaged.

§ 1217. Following emergency fire vehicles prohibited. The driver of any vehicle other than one on official business shall not follow any

authorized emergency fire vehicle in the same lane or an adjacent lane to the one being used by such fire vehicle at a distance closer than two hundred feet while such fire vehicle is displaying one or more red or combination red and white lights, or one white light which must be a revolving, rotating, flashing, oscillating or constantly moving light, nor shall such driver drive into or park his or her vehicle within the block or where there is no block, within one thousand feet of where such fire vehicle has stopped in answer to a fire alarm.

§ 1218. Crossing fire hose. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

§ 1219. Putting glass or other injurious substances on highway prohibited. (a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, snow or any other substance likely to injure any person, animal, or vehicle upon such highway.

(b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material or any material which interferes with the safe use of the highway shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

§ 1220. Throwing refuse on highways and adjacent lands prohibited. (a) No person shall throw, dump, deposit or place, or cause to be thrown, dumped, deposited or placed upon any highway, or within the limits of the right of way of such highway, or upon private lands adjacent thereto, any refuse, trash, garbage, rubbish, litter or any nauseous or offensive matter.

(b) Nothing herein contained shall be construed as prohibiting the use

in a reasonable manner of ashes, sand, salt or other material for the purpose of reducing the hazard of, or providing traction on snow, ice or sleet.

(b-1) Nothing herein contained shall be construed as prohibiting the use of any highway or private lands adjacent thereto for the transport or transit of agricultural trucks, machines or implements or dairy or domestic animals or agricultural stock with any accompanying reasonable or unavoidable deposit of nauseous or offensive matter.

(c) A violation of the provisions of subdivision (a) of this section shall be punishable by a fine not to exceed three hundred fifty dollars and/or a requirement to perform services for a public or not-for-profit corporation, association, institution or agency not to exceed ten hours and for any second or subsequent violation by a fine not to exceed seven hundred dollars and/or a requirement to perform services for a public or not-for-profit corporation, association, institution or agency not to exceed fifteen hours.

§ 1220-a. Liability for violation of a local law prohibiting unlawful dumping in a city having a population of one million or more. 1. In a city having a population of one million or more which has adopted a local law prohibiting unlawful dumping by any person, his or her agent, employee or any person under his or her control, the owner, operator or owner-operator of a vehicle used in violation of such local law who is found in violation of such local law where the environmental control board of such city has determined that such violation involved a substantial amount of materials or matter shall be subject to the suspension of his or her driver's license, resident or non-resident privilege to operate, or registration pursuant to subdivision two of this section in addition to any civil and criminal penalties set forth in such local law. For the purposes of this section, the following terms shall have the following meanings: (a) "substantial amount" shall mean a volume of at least two cubic yards; (b) "unlawful dumping" shall mean suffering or permitting any dirt, sand, gravel, clay, loam, stone, rocks, rubble, building rubbish, sawdust, shavings or trade or household waste, refuse, ashes, manure, garbage, rubbish or debris of any sort or any other organic or inorganic material or thing or other offensive

matter being transported in a dump truck or other vehicle to be dumped, deposited or otherwise disposed of in or upon any street, lot, part, public place or other area whether publicly or privately owned in a city with a population of one million or more, except in a manner prescribed by law, rule or regulation; (c) "owner" shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eighty-eight of this chapter, provided, however, that owner shall include any lessee or bailee of a vehicle having the exclusive use thereof, under a lease or otherwise, for any period of time; (d) "operator" shall mean any person who uses or operates a motor vehicle with or without the express or implied consent of the owner; (e) "owner-operator" shall mean any owner who uses or operates a motor vehicle where such owner-operator is the owner of such motor vehicle; and (f) "environmental control board" or "board" shall mean the environmental control board of a city with a population of one million or more.

2. Upon certification pursuant to the provisions of this section from the environmental control board that there remains unpaid a civil penalty imposed for a violation of a local law prohibiting unlawful dumping, the commissioner shall suspend the driver's license, or resident or non-resident privilege to operate, of an operator or owner-operator found to be in violation of such local law and who has failed to pay such civil penalty, and the registration of all vehicles owned by an owner or owner-operator found to be in violation of such local law and who has failed to pay such civil penalty. Such suspension shall remain in effect until such board notifies the commissioner pursuant to subdivision four of this section that such suspension shall be terminated. Such certification and notice of termination shall be made in the form and manner agreed upon between such environmental control board and the commissioner.

3. Whenever an owner, operator or owner-operator has been found by the environmental control board to be in violation of a local law prohibiting unlawful dumping, and such owner, operator or owner-operator has failed to make payment on a civil penalty imposed for such violation within one hundred days of the date such civil penalty was imposed, such

board may certify such fact to the commissioner. Provided, however, that prior to making such certification, notification shall be provided to each such owner, operator or owner-operator pursuant to subdivision four of this section. No such certification shall be made unless (a) such civil penalty has remained unpaid one hundred days from the date such civil penalty was imposed, either in full or in accordance with the terms of any written payment schedule established by such board with the consent of the person found in violation, and (b) such city with a population of one million or more has complied with the notice requirements pursuant to this section.

4. (a) A city with a population of one million or more which has adopted a local law prohibiting unlawful dumping shall provide an owner, operator, or owner-operator found to be in violation of such local law with a minimum of two written notices stating that failure to make payment on a civil penalty within one hundred days of the date such civil penalty was imposed for such violation may result in certification to the department to suspend the driver's license, privilege to operate, or vehicle registration, as the case may be, unless, by such date, such owner, operator or owner-operator makes full payment of such civil penalty or enters into a written payment schedule established by such board with the consent of such owner, operator or owner-operator and continues to comply with the terms of such schedule. Such city shall include one such written notice in the notice of violation served upon such owner, operator or owner-operator for a violation of a local law prohibiting unlawful dumping, and the environmental control board shall send the second such written notice by first class mail to such owner, operator or owner-operator not less than thirty days but in no event more than sixty days prior to the date such board makes a certification to the commissioner pursuant to this section.

(b) Upon the compliance of the owner, operator, or owner-operator with the provisions of paragraph (c) of this subdivision, the board shall notify the commissioner, within five business days of such compliance, that the suspension imposed pursuant to subdivision two of this section shall be terminated.

(c) An owner, operator or owner-operator who has received a notice that his or her driver's license, privilege to operate a motor vehicle,

or vehicle registration, as the case may be, shall be suspended, may avoid such suspension by: (i) making full payment of the civil penalty to the board by the specified date; or (ii) entering into a written payment schedule established by such board with the consent of such owner, operator, or owner-operator by the specified date and complying with the terms of such schedule.

5. Notwithstanding section one hundred fifty-five of this chapter or any other provision of law, where a person has been adjudicated by such environmental control board to be in violation of a local law described in subdivision one of this section, such adjudication shall not have the force and effect of a conviction of a traffic infraction, or a violation of any provision of this chapter.

§ 1220-b. Unlawful solicitation of ground transportation services at an airport. 1. No person shall unlawfully solicit ground transportation services at an airport. A person unlawfully solicits ground transportation services at an airport, when, at an airport, such person, without being authorized to do so by the airport operator, or without having made a prior agreement to provide ground transportation services to a specific patron, engages or offers to engage in any business, trade or commercial transaction involving the rendering to another person of any ground transportation services from such airport.

2. As used in this section, the term "ground transportation service" shall mean a service offering transportation by any vehicle, including taxi cab, limousine, van or bus.

3. As used in this section, the term "airport" shall mean all of the real property forming part of any facility used for the landing and taking off of airplanes engaged in the transportation of passengers, including without limitation, all roadways, parking areas, pedestrian walkways and terminal buildings forming part of such facility.

4. Any person who engages in the unlawful solicitation of ground transportation services at an airport shall be guilty of a traffic

infraction punishable by a fine of not less than seven hundred fifty dollars nor more than one thousand five hundred dollars, or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than one thousand five hundred dollars nor more than two thousand dollars, or by imprisonment for not more than forty-five days, or by both such fine and imprisonment; for a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than two thousand dollars nor more than three thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

§ 1220-c. Work permits for work on state highways. Except in connection with the construction, reconstruction, maintenance, or improvement of a state highway, no person shall work on a state highway without a work permit issued by the state commissioner of transportation.

§ 1221. Driving through safety zone prohibited. No vehicle shall at any time be driven through or within a safety zone.

§ 1222. Persons riding on trucks. 1. No operator of any motor vehicle commonly known as an auto truck shall operate such auto truck, nor shall the owner thereof permit it to be operated, for a distance in excess of five miles, while there is standing therein or thereon any person or persons in excess of one-third of the number of persons therein or thereon:

a. Unless suitable seats are securely attached to the body of such auto truck;

b. Unless side racks of at least three feet in height above the floor

of such auto truck are securely attached; and

c. Unless it shall have attached thereto a tail board or tail gate which is securely closed.

The provisions of this subdivision shall not apply to persons or corporations operating an agency or agencies for public service, who or which are subject to the jurisdiction, supervision and regulations prescribed by or pursuant to the public service law nor to their agents or employees when engaged in the business of such persons or corporations.

2. No operator of any motor vehicle commonly known as an auto truck shall operate such auto truck, nor shall the owner thereof permit it to be operated, in excess of five miles, while there are in excess of five persons under eighteen years of age in the body of such truck unless at least one person over eighteen years of age also rides in the body of said truck.

§ 1223. Lights on vehicles used for transportation of passengers. Unless otherwise governed by the provisions of this chapter, every vehicle used for the transportation of ten or more passengers upon the public highways, such as for picnics, hayrides and sleigh rides, shall, during the period from one-half hour after sunset to one-half hour before sunrise, display at least two lighted lamps on the front, one on each side, having light sources of equal power, which shall be visible for a distance of at least five hundred feet ahead of the vehicle and which shall project either white or yellow light, and at least two lighted lamps on the rear, one on each side, having light sources of equal power, which shall be visible for a distance of at least five hundred feet behind the vehicle and which shall project red light.

§ 1223-a. School buses; required identification. All school buses, as defined in section one hundred forty-two of this chapter, purchased, leased or acquired on or after September first, nineteen hundred

ninety-seven shall have the area code and telephone number of the owner and/or operator printed in three inch bold type on the rear of such vehicle. Provided, however, that nothing contained herein shall be deemed to prohibit the printing of such information as herein provided on school buses purchased, acquired or leased prior to September first, nineteen hundred ninety-seven.

§ 1224. Abandoned vehicles. 1. A motor vehicle shall be deemed to be an abandoned vehicle if left unattended

(a) with no number plates affixed thereto, for more than six hours on any highway or other public place;

(b) for more than twenty-four hours on any highway or other public place, except a portion of a highway or public place on which parking is legally permitted;

(c) for more than forty-eight hours, after the parking of such vehicle shall have become illegal, if left on a portion of a highway or public place on which parking is legally permitted;

(d) for more than ninety-six hours on property of another if left without permission of the owner.

2. If an abandoned vehicle, at the time of abandonment, has no number plates affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of two thousand two hundred fifty dollars or less, ownership shall immediately vest in the local authority having jurisdiction thereof and title to the vehicle shall vest in accordance with applicable law and regulations of the commissioner, provided however that a local authority shall not be required to obtain title to an abandoned vehicle that is subject to the provisions of this subdivision if the vehicle will be sold or otherwise disposed of as junk or salvage, dismantled for use other than as a motor vehicle, or otherwise destroyed.

3. (a) Except for vehicles governed by subdivision two, a local authority having custody of an abandoned vehicle shall make an inquiry concerning the last owner of such vehicle as follows:

(i) abandoned vehicle with number plates affixed--to the jurisdiction

which issued such number plates;

(ii) abandoned vehicle with no number plates affixed--the department of motor vehicles.

(b) Such local authority shall notify the last owner, if known, that the vehicle in question has been recovered as an abandoned vehicle and that, if unclaimed, it will be sold at public auction or by bid after ten days from the date such notice was given. If the agency described in paragraph (a) also notifies such local authority that a lien or mortgage exists such notice shall also be sent to the lienholder or mortgagee. The commissioner shall prescribe the methods of giving notice. Any person claiming such vehicle shall be required to pay the costs of removal and storage of such vehicle.

(c) Ownership of such abandoned vehicles, if unclaimed, shall vest in such local authority ten days from the date such notice is given; or if the last owner cannot be ascertained, when notice of such fact is received.

4. For the purposes of this section, a local authority entitled to custody of an abandoned vehicle shall be the town in which the vehicle was abandoned, or if abandoned in a city or village, the city or village in which the vehicle was abandoned, except that if a vehicle is abandoned on property of the New York state thruway authority or property under the jurisdiction of the office of parks, recreation and historic preservation, the department of transportation, or a public authority or commission, such authority, office, department or commission shall be entitled to the custody of such vehicle. Notwithstanding any provision of this section to the contrary, the office of general services shall be entitled to the custody of any vehicle abandoned on state property subsequent to its sale by such office. The commissioner may, by regulation, provide that a county may act as the agent for a local authority for the purpose of removing and disposing of abandoned vehicles.

5. (a) Such local authority shall determine if an abandoned vehicle is suitable for operation on the public highways. If so, the vehicle shall be sold at public auction to the highest bidder or converted pursuant to subdivision six of this section.

(b) If such local authority determines that an abandoned vehicle is not suitable for operation on the public highways, it shall sell the vehicle to a vehicle dismantler or scrap processor registered or certified pursuant to section four hundred fifteen-a of this chapter or to a vehicle dismantler or scrap processor who does not have a place of business in this state but who conforms to the laws and regulations of the state in which he has a place of business.

(c) An abandoned vehicle without a vehicle identification number plate must be sold only to a vehicle dismantler or a scrap processor registered or certified pursuant to section four hundred fifteen-a of this chapter or to a vehicle dismantler or scrap processor who does not have a place of business in this state but who conforms to the laws and regulations of the state in which he has a place of business. Nothing contained herein shall be construed as preventing a local authority from applying for a replacement vehicle identification number plate.

6. (a) A local authority, if authorized by local law, may convert to its own use those abandoned vehicles not affected by subdivision two of this section or may, by sale or gift, transfer title to any of such vehicles to any other municipal corporation for use by its law enforcement agency, provided however, the total number of vehicles converted and/or transferred in any calendar year may not exceed one percent of the local authority's unclaimed abandoned vehicles not affected by subdivision two of this section or two such vehicles, whichever is greater.

(b) Any proceeds from the sale of an abandoned vehicle less any expenses incurred by such local authority shall be held by the local authority without interest, for the benefit of the owner of such vehicle for a period of one year. If not claimed within such one year period, such proceeds shall be paid into the general fund of such local authority.

7. (a) No person shall cause any vehicle to be an abandoned vehicle. There shall be a rebuttable presumption that the owner of an abandoned vehicle caused such vehicle to be abandoned. A violation of this subdivision shall be punishable by a fine of not less than two hundred fifty dollars nor more than one thousand dollars. In a city having a

population of one million or more, a violation of this subdivision shall in addition be punishable by a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars.

(b) Notwithstanding any other provision of law, in addition to those persons otherwise authorized to enforce this subdivision and adjudicate violations thereof, this subdivision shall also be enforceable in a city having a population of one million or more by an agency or agencies designated for such purpose by the mayor of such city, and notices of violation may be returnable to the environmental control board of such city, which shall have the power to impose the civil penalties herein provided. Notwithstanding any other provision of law, service of a notice of violation for a violation of this subdivision committed in such city may be made upon an owner by first class mail, postage prepaid, and any such notice served by mail shall be returnable only to such environmental control board. Such service by first class mail shall be deemed complete upon mailing of the notice of violation, unless the notice of violation is returned to the sender by the United States postal service for any reason other than refusal of delivery. In addition, any notice of violation for a violation of this subdivision may be served by a means prescribed in article three of the civil practice law and rules or article three of the business corporation law. Notwithstanding any other provision of law, such civil penalties imposed by such environmental control board shall be paid into the general fund of such city. Notwithstanding section one hundred fifty-five of this chapter or any other provision of law, where a person has been adjudicated by such environmental control board to be in violation of this subdivision, such adjudication shall not have the force and effect of a conviction of a traffic infraction or of a violation of any provision of this chapter for any purpose not specified in this subdivision.

(c) Any final order issued pursuant to this subdivision by an environmental control board of a city having a population of one million or more shall constitute a judgment which may be entered in any place provided for the entry of civil judgments within the state, and may be enforced without court proceedings in the same manner as the enforcement of money judgments entered in civil actions; provided, however, that no such judgment shall be entered that exceeds the sum of ten thousand

dollars for each respondent. Notwithstanding the preceding sentence, before a judgment based upon a default may be so entered, such environmental control board must have notified the respondent by first class mail in such form as such environmental control board may direct: (1) of the default decision and order and the penalty imposed; (2) that a judgment will be entered in any place provided for the entry of civil judgments in the state; and (3) that entry of such judgment may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of such environmental control board within thirty days of the mailing of such notice. No judgment based upon a default may be so entered by the environmental control board within less than sixty days from the completion of service by mail of the notice of violation as provided in paragraph (b) of this subdivision. Any requirement of any provision of law other than this subdivision that relates to the manner of service of the notice of violation that precedes any final order of such environmental control board shall not apply to a final order issued pursuant to this subdivision. A judgment entered pursuant to this paragraph shall remain in full force and effect for eight years.

(d) Notwithstanding any other provision of this chapter, where the environmental control board of a city having a population of one million or more has adjudicated any person to be in violation of this subdivision and the civil penalty therefor is not paid, such environmental control board shall notify the commissioner of motor vehicles of the judgment, who shall suspend any license of such person to operate a motor vehicle in this state, or, if such person is unlicensed, such person's privilege of obtaining a license issued by the commissioner, or, if such person is a non-resident, such person's privilege of operating a motor vehicle in this state, pending payment of such civil penalty. The procedures set forth in the first paragraph of subdivision seven of section five hundred ten of this chapter shall be applicable to a suspension pursuant to this paragraph.

(e) For purposes of this subdivision only, the term "owner" means any person, corporation, partnership, firm, agency, association, lessor or organization who at the time of the issuance of a notice of violation for a violation of this subdivision:

(i) is the beneficial or equitable owner of the abandoned vehicle; or

(ii) has title to such vehicle; or

(iii) is the registrant or co-registrant of such vehicle registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or

(iv) uses such vehicle in its renting and/or leasing business; or

(v) is an owner of such vehicle as defined by section one hundred twenty-eight of this chapter or subdivision (a) of section twenty-one hundred one of this chapter.

9. The last owner of an abandoned vehicle shall be liable to such local authority for the costs of removal and storage of such vehicle.

10. The commissioner shall prescribe by regulation such forms and procedures necessary or desirable to effectuate the provisions of this section. Such regulations may include procedures for the removal and disposition of vehicle identification numbers of abandoned vehicles and forms for local records for abandoned vehicles and inquiries relating to ownership of such vehicles.

§ 1225. Avoiding intersection or traffic-control device. No person shall drive across or upon a sidewalk, driveway, parking lot or private property, or otherwise drive off a roadway, in order to avoid an intersection or traffic-control device.

§ 1225-a. Driving on sidewalks. No person shall drive a motor vehicle on or across a sidewalk, except that a vehicle may be driven at a reasonable speed, but not more than five miles per hour, on or across a sidewalk in such manner as not to interfere with the safety and passage of pedestrians thereon, who shall have the right of way, when it is reasonable and necessary:

(a) to gain access to a public highway, private way or lands or buildings adjacent to such highway or way;

(b) in the conduct of work upon a highway, or upon a private way or lands or buildings adjacent to such highway or way, or

(c) to plow snow or perform any other public service, for hire, or

otherwise, which could not otherwise be reasonably and properly performed.

§ 1225-b. Retail sale of frozen desserts by motor vehicle; restrictions. 1. No person operating a motor vehicle engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians shall engage in any such retail sale: (a) unless such motor vehicle is lawfully parked or stopped; (b) to any person, unless such sale occurs from the side of the vehicle away from moving traffic and as near as possible to the curb or shoulder of the roadway; and (c) to any person standing in the roadway.

2. A violation of this section shall be punishable by a fine of not more than fifty dollars.

§ 1225-c. Use of mobile telephones. 1. For purposes of this section, the following terms shall mean:

(a) "Mobile telephone" shall mean the device used by subscribers and other users of wireless telephone service to access such service.

(b) "Wireless telephone service" shall mean two-way real time voice telecommunications service that is interconnected to a public switched telephone network and is provided by a commercial mobile radio service, as such term is defined by 47 C.F.R. § 20.3.

(c) "Using" shall mean (i) holding a mobile telephone to, or in the immediate proximity of, the user's ear; and (ii) with respect to a person operating a commercial motor vehicle, holding a mobile telephone to, or in the immediate proximity of, the user's ear, or dialing or answering a mobile telephone by pressing more than a single button, or reaching for a mobile telephone in a manner that requires such person to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with section 393.93 of title 49 of the code of federal regulations and adjusted in accordance with the vehicle manufacturer's instructions.

(d) "Hand-held mobile telephone" shall mean a mobile telephone with

which a user engages in a call using at least one hand.

(e) "Hands-free mobile telephone" shall mean a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a function of such telephone. Provided, however, that for purposes of this section, a mobile telephone used by a person operating a commercial motor vehicle shall not be deemed a "hands-free mobile telephone" when such person dials or answers such mobile telephone by pressing more than a single button.

(f) "Engage in a call" shall mean talking into or listening on a hand-held mobile telephone, but shall not include holding a mobile telephone to activate, deactivate or initiate a function of such telephone.

(g) "Immediate proximity" shall mean that distance as permits the operator of a mobile telephone to hear telecommunications transmitted over such mobile telephone, but shall not require physical contact with such operator's ear.

(h) "Commercial motor vehicle" shall have the same meaning as such term is defined by subdivision four-a of section two of the transportation law.

(i) "Motor carrier" shall have the same meaning as such term is defined by subdivision seventeen of section two of the transportation law.

2. (a) Except as otherwise provided in this section, no person shall operate a motor vehicle upon a public highway while using a mobile telephone to engage in a call while such vehicle is in motion; provided, however, that no person shall operate a commercial motor vehicle while using a mobile telephone to engage in a call on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Provided further, however, that a person shall not be deemed to be operating a commercial motor vehicle while using a mobile telephone to engage in a call on a public highway when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited

from stopping by law, rule, regulation or any lawful order or direction of a police officer.

(b) An operator of any motor vehicle who holds a mobile telephone to, or in the immediate proximity of, his or her ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section; provided, however, that an operator of a commercial motor vehicle who holds a mobile telephone to, or in the immediate proximity of, his or her ear while such vehicle is temporarily stationary because of traffic, a traffic control device, or other momentary delays is also presumed to be engaging in a call within the meaning of this section except that a person operating a commercial motor vehicle while using a mobile telephone to engage in a call when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer shall not be presumed to be engaging in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call.

(c) The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a mobile telephone, unless otherwise provided by law.

(d) No motor carrier shall allow or require its drivers to use a hand-held mobile telephone while operating a commercial motor vehicle as provided in this section.

3. Subdivision two of this section shall not apply to (a) the use of a mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department, (b) any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district or company; or the operator of an authorized emergency vehicle as defined in section one hundred one of this chapter, or (c) the use of a hands-free mobile telephone.

4. A violation of subdivision two of this section shall be a traffic

infraction and shall be punishable by a fine of not less than fifty dollars nor more than two hundred dollars upon conviction of a first violation; upon conviction of a second violation, both of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars; upon conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than four hundred fifty dollars.

§ 1225-d. Use of portable electronic devices. 1. Except as otherwise provided in this section, no person shall operate a motor vehicle while using any portable electronic device while such vehicle is in motion; provided, however, that no person shall operate a commercial motor vehicle while using any portable electronic device on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Provided further, however, that a person shall not be deemed to be operating a commercial motor vehicle while using a portable electronic device on a public highway when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer.

1-a. No motor carrier shall allow or require its drivers to use a portable electronic device while operating a commercial motor vehicle as provided in this section.

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

(a) "Portable electronic device" shall mean any hand-held mobile telephone, as defined by subdivision one of section twelve hundred twenty-five-c of this article, personal digital assistant (PDA), handheld device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device, or any other electronic

device when used to input, write, send, receive, or read text for present or future communication.

(b) "Using" shall mean holding a portable electronic device while viewing, taking or transmitting images, playing games, or, for the purpose of present or future communication: performing a command or request to access a world wide web page, composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, instant messages, or other electronic data.

(c) "Commercial motor vehicle" shall have the same meaning as such term is defined by subdivision four-a of section two of the transportation law.

(d) "Motor carrier" shall have the same meaning as such term is defined by subdivision seventeen of section two of the transportation law.

3. Subdivision one of this section shall not apply to (a) the use of a portable electronic device for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital; a physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department, (b) any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district or company; or the operator of an authorized emergency vehicle as defined in section one hundred one of this chapter.

4. A person who holds a portable electronic device in a conspicuous manner while operating a motor vehicle or while operating a commercial motor vehicle on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays but not including when such commercial motor vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer is presumed to be using such device, except that a person operating a commercial motor vehicle while using a portable electronic device when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle

is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer shall not be presumed to be using such device. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not using the device within the meaning of this section.

5. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a portable electronic device, unless otherwise provided by law.

6. A violation of this section shall be a traffic infraction and shall be punishable by a fine of not less than fifty dollars nor more than two hundred dollars upon conviction of a first violation; upon conviction of a second violation, both of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars; upon conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than four hundred fifty dollars.

§ 1226. Control of steering mechanism. No person shall operate a motor vehicle without having at least one hand or, in the case of a physically handicapped person, at least one prosthetic device or aid on the steering mechanism at all times when the motor vehicle is in motion.

§ 1227. Consumption or possession of alcoholic beverages in certain motor vehicles. 1. The drinking of alcoholic beverages or consumption of cannabis, or the possession of an open container containing an alcoholic beverage, in a motor vehicle located upon the public highways or right-of-way public highway is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction.

The provisions of this section shall not be deemed to prohibit the drinking of alcoholic beverages, the consumption of cannabis by means

other than burning, or the possession of an open container containing an alcoholic beverage by passengers in passenger vehicles operated pursuant to a certificate or permit issued by the department of transportation or the United States department of transportation. Furthermore, the provisions of this section shall not be deemed to prohibit the possession of wine which is: (a) resealed in accordance with the provisions of subdivision four of section eighty-one of the alcoholic beverage control law; and (b) is transported in the vehicle's trunk or is transported behind the last upright seat or in an area not normally occupied by the driver or passenger in a motor vehicle that is not equipped with a trunk.

2. For the purposes of this section, a passenger vehicle shall mean a vehicle designed to carry ten or more passengers and used to carry passengers for profit or hire.

§ 1228. Riding in house coach trailers. No person shall drive a vehicle on a public highway while drawing a house coach trailer occupied by any person and no person shall occupy a house coach trailer while it is being drawn upon a public highway.

§ 1229. Sign required on privately-owned vehicle used in delivery of mail. 1. Every person operating a privately-owned vehicle in delivering the United States mail to the addressee thereof shall affix to such vehicle a white sign, visible from the rear, containing the following statement:

U. S. MAIL

Such statement shall be in black lettering at least four inches in height.

2. Every person who violates the provisions of this section shall be punishable by a fine not exceeding twenty-five dollars or by imprisonment for not more than ten days or by both such fine and imprisonment.

§ 1229-a. Pedestrians, animals, and non-motorized vehicles prohibited on state expressway highways or state interstate route highways including the entrances thereto and exits therefrom. No person, unless otherwise directed by a police officer shall: (a) As a pedestrian, occupy any space within the limits of a state expressway highway or state interstate route highway, including the entrances thereto and exits therefrom, except: in a rest area, parking area, or scenic overlook; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle or to obtain assistance; where a sidewalk, footpath or pedestrian crossing of such a highway is provided; (b) Occupy any space of a state expressway highway or state interstate route highway, including the entrances thereto and exits therefrom, with: an animal-drawn vehicle; herded animals, a pushcart; a bicycle; except in the performance of public works or official duties, or on paths or parts of such highway provided for such uses.

§ 1229-b. Operation of school, camp and charter omnibuses with passengers standing prohibited. 1. When the number of passengers is greater than the number of seats available, it shall be unlawful to operate a camp or charter omnibus upon the public highways for a distance of ten miles or more with any passenger standing.

2. It shall be unlawful to operate upon the public highways a school bus owned by or contracted to a school district with any passenger standing whenever it is employed exclusively for the transportation of students under the age of twenty-one and teachers or other persons acting in a supervisory capacity to or from school or school activities, except as provided in paragraph (a) or (b) of this subdivision:

(a) Standing passengers may be permitted on such a school bus, provided that the number of standing passengers on a school bus shall not exceed the limit established in the following schedule for the applicable time period:

Period:	Not more than:
Through June 30, 2001	20% of approved seating capacity

Between July 1, 2001 and June 30, 2002	15% of approved seating capacity
Between July 1, 2002 and June 30, 2003	10% of approved seating capacity
Between July 1, 2003 and June 30, 2004	5% of approved seating capacity

(b) Notwithstanding any other provision of this section to the contrary, standing passengers may be permitted without limitation as to number during the first ten days of session in each school year, and in circumstances where a breakdown, accident, or other unforeseen occurrence necessitates the transportation of standing passengers.

(c) Nothing contained in this section shall be construed to restrict the power of a city with a population of one million or more to adopt and enforce local laws that comply with at least the minimum applicable standards set forth in this section.

§ 1229-c. Operation of vehicles with safety seats and safety belts. 1. No person shall operate a motor vehicle in this state unless: (a) all back seat passengers of such vehicle under the age of four are restrained in a specially designed seat which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213 and which is either permanently affixed or is affixed to such vehicle by a safety belt and which shall be rear-facing whenever the passenger being restrained in such seat is under the age of two except that in the event that the weight or height of such passenger under the age of two exceeds the occupant size and weight recommendations of the manufacturer of such rear-facing seat, such seat may be forward-facing; provided, however, that in the event that the weight of such passenger under the age of four exceeds forty pounds, such passenger may be restrained (i) in an appropriate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) by a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen; (b) all back seat passengers of such vehicle who are age four or older but

under age eight (i) are restrained in an appropriate child restraint system as defined in subdivision four of this section used with combination lap and shoulder harness belts or (ii) are restrained in a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen; or (c) in the case of any other back seat passenger under the age of sixteen, he or she is restrained by a safety belt approved by the commissioner.

2. No person shall operate a motor vehicle unless all front seat passengers (a) under the age of sixteen are restrained by a safety belt; or (b) if they are under the age of four, by a specially designed seat which is either permanently affixed or affixed to such vehicle by a safety belt as required by subdivision one of this section, or in the event that the weight of such passenger under the age of four exceeds forty pounds, such passenger may be restrained (i) in an appropriate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) by a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen; or (c) if they are age four or older but under age eight, (i) are restrained in an appropriate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) are restrained in a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen.

3. No person shall operate a motor vehicle unless such person is restrained by a safety belt approved by the commissioner. No person sixteen years of age or over shall be a passenger in a motor vehicle unless such person is restrained by a safety belt approved by the commissioner.

3-a. Except as otherwise provided for passengers under the age of four, it shall be a violation of this section if a person is seated in a seating position equipped with both a lap safety belt and a shoulder harness belt and such person is not restrained by both such lap safety belt and shoulder harness belt.

3-b. No person holding a class DJ learner's permit or class DJ license issued pursuant to section five hundred two of this chapter, shall operate a motor vehicle in this state unless such person is restrained by a safety belt approved by the commissioner, and all passengers under the age of four are restrained in a specially designed seat which meets the federal motor vehicle safety standards set forth in 49 C.F.R. 571.213 and which is either permanently affixed or is affixed to such vehicle by a safety belt and, in the case of any other passenger under the age of sixteen, he or she is restrained by a safety belt approved by the commissioner. No person sixteen years of age or over shall be a passenger in a motor vehicle operated by a person holding a class DJ learner's permit, a class DJ license or a limited class DJ license unless such passenger is restrained by a safety belt approved by the commissioner.

3-c. (a) No person shall operate a taxi or livery unless such person is restrained by a safety belt approved by the commissioner.

(b) No person sixteen years of age or over shall be a passenger in a taxi or livery unless such person is restrained by a safety belt approved by the commissioner.

(c) No person eight years of age or older but under age sixteen shall be a passenger in a taxi or livery unless such person is restrained by a safety belt approved by the commissioner. A police officer shall only issue a summons for a violation of this paragraph to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian and shall not be issued to the person eight years of age or older but under age sixteen.

3-d. (a) No person sixteen years of age or older shall be a passenger

in a charter bus unless such person is restrained by a safety belt approved by the commissioner.

(b) No person eight years of age or older but under age sixteen shall be a passenger in a charter bus unless such person is restrained by a safety belt approved by the commissioner. A police officer shall only issue a summons for a violation of this paragraph to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or older. Such summons shall only be issued to such parent or guardian and shall not be issued to the person eight years of age or older but under age sixteen.

4. For the purposes of this section, the following terms shall have the following meanings: (a) "motor vehicle" shall include all motor vehicles which are required by section three hundred eighty-three of this chapter or regulation or would be required if such motor vehicle were registered in New York state to be equipped by a safety belt but shall not include those vehicles which are used as school buses, as such term is defined in section one hundred forty-two of this chapter and those vehicles which are authorized emergency vehicles, as such term is defined in section one hundred one of this chapter, provided, however, that for purposes of this section, "motor vehicle" shall also include fire vehicles owned and/or operated by a fire company as defined by subdivision two of section one hundred of the general municipal law and ambulances owned and/or operated by a voluntary ambulance service as defined by subdivision three of section one hundred of the general municipal law;

(b) "child restraint system" shall mean any device, used in conjunction with safety belts, designed for use in a motor vehicle to restrain, seat, or position children and which meets the applicable Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213;

(c) "appropriate child restraint system" shall mean a child restraint system for which the occupant meets the occupant size and weight recommendations of the manufacturer of such system;

(d) "charter bus" shall mean a bus manufactured or assembled on or after November twenty-eighth, two thousand sixteen transporting passengers for compensation in a chartered party; and

(e) "chartered party" shall mean a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge, have acquired exclusive use of a bus to travel together as a group to a specific destination or for a particular itinerary either agreed upon in advance or modified after having left the place of origin by such group.

5. Any person who violates the provisions of subdivision three, three-c, three-d or ten-a of this section shall be punished by a civil fine of up to fifty dollars. Any person who violates the provisions of subdivision one, two, eleven or thirteen of this section shall be punished by a civil fine of not less than twenty-five nor more than one hundred dollars. In any prosecution or proceeding alleging a violation of paragraph (b) of subdivision one or paragraph (c) of subdivision two of this section, it shall be an affirmative defense that the passenger subject to the requirements of such paragraphs was restrained by a safety belt and measures more than four feet nine inches in height and/or weighs more than one hundred pounds. In any prosecution or proceeding alleging a violation of paragraph (b) or paragraph (c) of subdivision three-c of this section, it shall be an affirmative defense that such taxi or livery was in violation of subdivision four-b of section three hundred eighty-three of this chapter. In any prosecution or proceeding alleging a violation of subdivision three-d of this section, it shall be an affirmative defense that such charter bus was not equipped with seat belts, or such seat belts were not clearly visible, accessible, or maintained in good working order.

6. The court shall waive any fine for which a person who violates the provisions of this section would be liable with respect to passengers under the age of eight if such person supplies the court with proof that, between the date on which he is charged with having violated this section and the appearance date for such violation, he purchased or rented a child restraint system which meets the requirements of subdivision one of this section. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this section.

7. The provisions of this section shall not apply to a passenger or

operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety seat or safety belt provided, however, such condition is duly certified by a physician or nurse practitioner who shall state the nature of the handicap, as well as the reason such restraint is inappropriate.

8. Non-compliance with the provisions of this section shall not be admissible as evidence in any civil action in a court of law in regard to the issue of liability but may be introduced into evidence in mitigation of damages provided the party introducing said evidence has pleaded such non-compliance as an affirmative defense.

9. Notwithstanding the provisions of subdivision four of this section, (a) the provisions of this section shall not apply to buses other than school buses, except as otherwise provided in subdivision three-d of this section and except that the provisions of subdivision three-a of this section shall be applicable to any person operating a charter bus and to charter bus passengers age eight or older, and (b) the provisions of subdivisions one, two, three and three-a of this section shall not apply to taxis and liveries except that the provisions of subdivision three-a of this section shall be applicable to any person operating a taxi or livery and to taxi and livery passengers age eight or older.

10. The provisions of this section shall not apply to persons employed as rural letter carriers, as defined by the United States postal service, while such persons are discharging the duties of such employment.

10-a. Notwithstanding the provisions of subdivision one of this section, no person sixteen years of age or over shall be a passenger in the rear seat of a fire vehicle owned and/or operated by a fire company as defined by subdivision two of section one hundred of the general municipal law or in the rear seat of an ambulance owned and/or operated by a voluntary ambulance service as defined by subdivision three of section one hundred of the general municipal law unless such person is restrained by a safety belt approved by the commissioner. Provided, however, that the provisions of this subdivision shall not apply: (a) to

a passenger in the rear seat of such fire vehicle or ambulance if such seat is not required to be equipped with safety belts pursuant to the provisions of section three hundred eighty-three of this chapter, nor (b) to emergency medical personnel during the course of providing patient care in the rear compartment of an ambulance in accordance with applicable patient care standards, guidelines and protocols established pursuant to article thirty of the public health law.

11. Notwithstanding the provisions of subdivision four of this section, no person shall operate a school bus unless all passengers under the age of four are restrained in a specially designed detachable or removable seat as required by subdivision one of this section, or another restraining device approved by the commissioner.

12. (a) Every rental vehicle company, as defined in paragraph (c) of subdivision one of section three hundred ninety-six-z of the general business law, shall post a sign in their place of business which states in conspicuous lettering of at least seventy-two point boldface type:

NEW YORK STATE LAW REQUIRES ALL CHILDREN UNDER THE AGE OF EIGHT TO BE RESTRAINED IN A FEDERALLY APPROVED CHILD RESTRAINT SYSTEM.

(b) Such sign shall be placed in an upright position and in a conspicuous place where it can easily be read by the clientele of the rental vehicle company.

(b-1) A peer-to-peer car sharing program as defined in section three thousand four hundred fifty-eight of the insurance law shall provide comparable notice for shared vehicle drivers and shared vehicle owners, as defined in section three thousand four hundred fifty-eight of the insurance law, on its website in conspicuous lettering.

(c) Any rental vehicle company or peer-to-peer car sharing program that makes a shared vehicle, as defined in section three thousand four hundred fifty-eight of the insurance law, available for peer-to-peer car sharing which violates the provisions of this subdivision shall be subject to a civil penalty, not to exceed one hundred dollars for each day of violation.

13. Notwithstanding the provisions of subdivision four of this

section, no person shall operate a school bus for which there are no applicable federal school bus safety standards unless all occupants are restrained by a safety belt approved by the commissioner or, regarding occupants age four or older but under age seven, are restrained pursuant to subdivision one or two of this section.

§ 1229-d. School bus attendant. (1) "School bus attendant" shall mean a person employed or authorized by a school district to ride on a school bus as defined in paragraph (a) of subdivision one of section five hundred nine-a of this chapter for the purpose of maintaining order or rendering assistance to pupils with special needs.

(2) Screening of applicants for position of school bus attendant (a) a school district, pursuant to a policy statement or resolution adopted by such district, may review the qualifications of every applicant for the position of school bus attendant on school buses operated by or under contract to the district and determine at its discretion whether the applicant is suitable for qualification. In such cases, applicants may be made the subject of a criminal history check. Upon receipt of the fingerprints forwarded to them by such school district, the division of criminal justice services shall forward to such school district the criminal history review. A fee not to exceed the cost for the criminal history review shall be charged by the division of criminal justice services. Such fingerprints also may be submitted to the federal bureau of investigation for a national criminal history record check.

(b) In determining the qualifications of school bus attendants, a school district may use the criteria listed in subdivision two of section five hundred nine-cc of this chapter relative to criminal convictions.

(c) All inquiries made, and the use of any criminal record obtained, pursuant to this section shall be in accordance with section two hundred ninety-six of the executive law. In addition, the secondary dissemination of such information shall be limited to other authorized agencies, by express agreement between the school district and the division of criminal justice services, or as authorized pursuant to federal law, and rules and regulations. No cause of action against the school district or division of criminal justice services for damages

related to the dissemination of criminal history records pursuant to this section shall exist when the school district or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies.

(3) The commissioner of education shall promulgate rules and regulations requiring that every school bus attendant serving pupils with a disabling condition receive school bus safety training and instruction relating to the special needs of such pupils. Such training shall include guidance on the proper techniques for assisting disabled students in entering and exiting the school bus, and shall include instruction in cardiopulmonary resuscitation where such skills are required as part of the individualized education plan prepared for the student, as well as any additional first aid or health emergency skills that the commissioner of education deems appropriate and necessary for school bus attendants to possess. In addition, such school bus attendants shall demonstrate the ability to perform procedures necessary in emergency situations as deemed appropriate by the commissioner of education. Any person employed as a school bus attendant serving pupils with a disabling condition on January first, two thousand four shall comply with the requirements of this subdivision by July first, two thousand four. Any person hired after January first, two thousand four shall complete training, instruction and testing prior to assuming their duties as a school bus attendant serving pupils with a disabling condition.

(4) The commissioner of education, in consultation with the justice center for the protection of people with special needs, shall promulgate rules and regulations requiring that every school bus attendant serving a student or students with a disability receive training and instruction relating to the understanding of and attention to the special needs of such students. Such training and instruction may be included with the training and instruction required pursuant to subdivision three of this section and shall be provided at least once per year or more frequently as determined by the commissioner of education in consultation with the state comprehensive school bus driver safety training council. For the purposes of this subdivision, the term "student with a disability" shall have the same meaning as such term is defined in subdivision one of

section forty-four hundred one of the education law. Any person employed as a school bus attendant serving a student or students with a disability on January first, two thousand nine shall comply with the requirements of this subdivision by July first, two thousand nine. Any person hired after January first, two thousand nine shall complete such training, instruction and testing prior to assuming his or her duties as a school bus attendant serving a student or students with a disability.

ARTICLE 34

OPERATION OF BICYCLES AND PLAY DEVICES

Section 1230. Effect of regulations.

1231. Traffic laws apply to persons riding bicycles or skating or gliding on in-line skates.

1232. Riding on bicycles.

1233. Clinging to vehicles.

1234. Riding on roadways, shoulders, bicycle or in-line skate lanes and bicycle or in-line skate paths.

1235. Carrying articles.

1236. Lamps and other equipment on bicycles.

1237. Method of giving hand and arm signals by bicyclists.

1238. Passengers on bicycles under one year of age prohibited; passengers and operators under fourteen years of age to wear protective headgear; operators of class three bicycles with electric assist to wear protective headgear.

1239. Reflective material and devices for in-line skating.

1240. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the second degree.

1241. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the first degree.

1242. Additional provisions applicable to bicycles with electric assist.

1242-a. Operation of a bicycle with electric assist while under the influence of alcohol or drugs.

1243. Shared bicycle and shared bicycle with electric assist systems; data protection.

§ 1230. Effect of regulations. (a) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

(b) These regulations applicable to bicycles or to in-line skates shall apply whenever a bicycle is, or in-line skates are, operated upon any highway, upon private roads open to public motor vehicle traffic and upon any path set aside for the exclusive use of bicycles, or in-line skates, or both.

§ 1231. Traffic laws apply to persons riding bicycles or skating or gliding on in-line skates. Every person riding a bicycle or skating or gliding on in-line skates upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

§ 1232. Riding on bicycles. (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto, nor shall he ride with his feet removed from the pedals.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

§ 1233. Clinging to vehicles. 1. No person riding upon any bicycle, coaster, in-line skates, roller skates, skate board, sled, or toy vehicle shall attach the same or himself or herself to any vehicle being operated upon a roadway.

2. No person shall ride on or attach himself to the outside of any

vehicle being operated upon a roadway.

The provisions of this section shall not apply to:

(i) vehicles in an emergency operation as defined in section one hundred fourteen-b of this chapter; and

(ii) farm type tractors used exclusively for agricultural purposes or other farm equipment; and

(iii) riding on the open, uncovered cargo area of a truck with the permission of the operator of such truck; and

(iv) vehicles employed by a municipality for local garbage collection; and

(v) vehicles participating in a parade pursuant to a municipal permit.

3. No vehicle operator shall knowingly permit any person to attach any device or himself to such operator's vehicle in violation of subdivision one or subdivision two of this section.

§ 1234. Riding on roadways, shoulders, bicycle or in-line skate lanes and bicycle or in-line skate paths. (a) Upon all roadways, any bicycle or in-line skate shall be driven either on a usable bicycle or in-line skate lane or, if a usable bicycle or in-line skate lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing for a left turn or when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, in-line skates, pedestrians, animals, surface hazards or traffic lanes too narrow for a bicycle or person on in-line skates and a vehicle to travel safely side-by-side within the lane.

(b) Persons riding bicycles or skating or gliding on in-line skates upon a roadway shall not ride more than two abreast. Persons riding bicycles or skating or gliding on in-line skates upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skates path, intended for the use of bicycles or in-line skates may ride two or more

abreast if sufficient space is available, except that when passing a vehicle, bicycle or person on in-line skates, or pedestrian, standing or proceeding along such shoulder, lane or path, persons riding bicycles or skating or gliding on in-line skates shall ride, skate, or glide single file. Persons riding bicycles or skating or gliding on in-line skates upon a roadway shall ride, skate, or glide single file when being overtaken by a vehicle.

(c) Any person operating a bicycle or skating or gliding on in-line skates who is entering the roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

§ 1235. Carrying articles. No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handle bars. No person skating or gliding on in-line skates shall carry any package, bundle, or article which obstructs his or her vision in any direction. No person operating a skate board shall carry any package, bundle, or article which obstructs his or her vision in any direction.

§ 1236. Lamps and other equipment on bicycles. (a) Every bicycle when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible during hours of darkness from a distance of at least five hundred feet to the front and with a red or amber light visible to the rear for three hundred feet. Effective July first, nineteen hundred seventy-six, at least one of these lights shall be visible for two hundred feet from each side.

(b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(d) Every new bicycle shall be equipped with reflective tires or,

alternately, a reflex reflector mounted on the spokes of each wheel, said tires and reflectors to be of types approved by the commissioner. The reflex reflector mounted on the front wheel shall be colorless or amber, and the reflex reflector mounted on the rear wheel shall be colorless or red.

(e) Every bicycle when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with reflective devices or material meeting the standards established by rules and regulations promulgated by the commissioner; provided, however, that such standards shall not be inconsistent with or otherwise conflict with the requirements of subdivisions (a) and (d) of this section.

§ 1237. Method of giving hand and arm signals by bicyclists. All signals herein required to be given by bicyclists by hand and arm shall be given in the following manner and such signals shall indicate as follows:

1. Left turn. Left hand and arm extended horizontally.

2. Right turn. Left hand and arm extended upward or right hand and arm extended horizontally.

3. Stop or decrease speed. Left hand and arm extended downward.

§ 1238. Passengers on bicycles under one year of age prohibited; passengers and operators under fourteen years of age to wear protective headgear; operators of class three bicycles with electric assist to wear protective headgear. 1. No person operating a bicycle shall allow a person who is under one year of age to ride as a passenger on a bicycle nor shall such person be carried in a pack fastened to the operator. A first violation of the provisions of this subdivision shall result in no fine. A second violation shall result in a civil fine not to exceed fifty dollars.

2. No person operating a bicycle shall allow a person one or more years of age and less than five years of age to ride as a passenger on a bicycle unless:

(a) such passenger is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision wearing a helmet means having a helmet of good fit fastened securely upon the head with the helmet straps; and

(b) such passenger is placed in a separate seat attached to the bicycle and such seat shall have adequate provision for retaining the passenger in place and for protecting the passenger from the moving parts of the bicycle.

2-a. The commissioner shall promulgate rules and regulations establishing standards for helmets required to be worn while bicycling, in-line skating, or operating a skate board. Such standards, to the extent practicable, shall reflect the standards recommended by the Snell Memorial Foundation, Safety Equipment Institute, or United States Consumer Product Safety Commission.

3. Any person who violates the provisions of subdivision two of this section shall pay a civil fine not to exceed fifty dollars.

4. The court shall waive any fine for which a person who violates the provisions of paragraph (a) of subdivision two of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet, which meets the requirements of paragraph (a) of subdivision two of this section. Further, the court shall waive any fine for which a person who violates the provisions of paragraph (b) of subdivision two of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a seat which meets the requirements of paragraph (b) of subdivision two of this section. The court may waive any fine for which a person who violates the provisions of subdivision two of this section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or seat. Such waiver of fine

shall not apply to a second or subsequent conviction under paragraph (a) or (b) of subdivision two of this section.

5. (a) No person operating a bicycle shall allow a person five or more years of age and less than fourteen years of age to ride as a passenger on a bicycle unless such passenger is wearing a helmet meeting standards established by the commissioner.

(b) No person, one or more years of age and less than fourteen years of age, shall operate a bicycle unless such person is wearing a helmet meeting standards established by the commissioner.

(c) For the purposes of this subdivision wearing a helmet means having a helmet of good fit fastened securely upon the head with the helmet straps.

5-a. No person, one or more years of age and less than fourteen years of age, shall skate or glide on in-line skates or a skate board unless such person is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision, wearing a helmet means having a helmet of good fit fastened securely on the head of such wearer with the helmet straps securely fastened.

5-b. No person less than fourteen years of age shall ride upon, propel or otherwise operate a two-wheeled vehicle commonly called a scooter unless such person is wearing a helmet meeting standards established by the commissioner. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

5-c. No person shall ride upon, propel or otherwise operate a class three bicycle with electric assist unless such person is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

6. (a) Any person who violates the provisions of subdivision five, five-a, five-b or five-c of this section shall pay a civil fine not to

exceed fifty dollars.

(b) The court shall waive any fine for which a person who violates the provisions of subdivision five or subdivision five-c of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet.

(c) The court may waive any fine for which a person who violates the provisions of subdivision five, five-a, five-b, or five-c of this section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law, or a local distribution program. Such waiver of a fine shall not apply to a second or subsequent violation of subdivision five-c of this section.

7. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

8. (a) A police officer shall only issue a summons for a violation of subdivision two, five, or five-a of this section by a person less than fourteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than fourteen years of age.

(b) A police officer shall only issue a summons for a violation of subdivision five-c of this section by a person less than sixteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than sixteen years of age.

9. Subdivisions five, five-a, five-b, and six of this section shall not be applicable to any county, city, town or village that has enacted a local law or ordinance prior to the effective date of this subdivision that prohibits a person who is one or more years of age and less than fourteen years of age from operating a bicycle or skating or gliding on in-line skates or a skate board without wearing a bicycle helmet meeting the standards of the American National Standards Institute (Ansi Z 90.4 bicycle helmet standards), the Snell Memorial Foundation's Standards for Protective Headgear for use in Bicycling, or the American Society of Testing and Materials (ASTM) bike helmet standards, or that prohibits a person operating a bicycle from allowing a person five or more years of age and less than fourteen years of age to ride as a passenger on a bicycle unless such passenger is wearing a bicycle helmet that meets such standards. The failure of any person to comply with any such local law or ordinance shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action. The legislative body of a county, city, town or village may enact a local law or ordinance that prohibits a person who is fourteen or more years of age from skating or gliding on in-line skates, operating a skate board, or operating or riding as a passenger on a bicycle without wearing a bicycle helmet.

10. No person shall skate or glide on in-line skates or a skate board outside during the period of time between one-half hour after sunset and one-half hour before sunrise unless such person is wearing readily visible reflective clothing or material which is of a light or bright color.

§ 1239. Reflective material and devices for in-line skating. The commissioner is hereby directed to promulgate rules and regulations to establish standards for reflective devices and/or material to be equipped into in-line skates pursuant to section three hundred ninety-one-m of the general business law.

§ 1240. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the second degree. 1. Any person age eighteen years or older operating a wheeled non-motorized means of conveyance, including, but not limited to bicycles, in-line skates, roller skates and skate boards, who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such non-motorized means of conveyance by such person, shall, before leaving the place where the said physical injury occurred, stop, and provide his name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

2. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the second degree is a violation.

§ 1241. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the first degree. 1. Any person age eighteen years or older operating a wheeled non-motorized means of conveyance, including, but not limited to bicycles, in-line skates, roller skates and skate boards, who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such non-motorized means of conveyance by such person, shall, before leaving the place where the said serious physical injury occurred, stop, and provide his name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

2. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the first degree is a class B misdemeanor.

§ 1242. Additional provisions applicable to bicycles with electric assist. 1. In addition to complying with all of the rules, regulations, and provisions applicable to bicycles contained in this article, bicycles with electric assist shall operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied or the rider stops pedaling, or operate in a manner such that the electric motor is engaged through a switch or mechanism that, when released, will cause the electric motor to disengage or cease to function.

2. No person less than sixteen years of age shall operate a bicycle with electric assist. The failure of any person to comply with the provisions of this subdivision shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

3. (a) Except as provided in paragraphs (b) and (c) of this subdivision, the governing body of any city, town or village may, by local law or ordinance, further regulate the time, place and manner of the operation of bicycles with electric assist including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of bicycles with electric assist, and may limit, prohibit the use thereof in specified areas, or prohibit entirely the use of bicycles with electric assist within such city, town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.

(b) The governing body of any city, town or village in the counties of Nassau or Suffolk may, by local law or ordinance, further regulate the

time, place and manner of the operation of bicycles with electric assist, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of bicycles with electric assist only after adoption of a local law or ordinance by the governing body of the county in which the city, town or village is located. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a city, town or village in the counties of Nassau or Suffolk pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of bicycles with electric assist in specified areas, or prohibit entirely the use of bicycles with electric assist within such city, town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.

(c) The governing body of any town or village in the county of Westchester may, by local law or ordinance, further regulate the time, place and manner of the operation of bicycles with electric assist, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of bicycles with electric assist only after adoption of a local law or ordinance by the governing body of Westchester county. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a town or village in the county of Westchester pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of bicycles with electric assist in specified areas, or prohibit entirely the use of bicycles with electric assist within such town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.

4. (a) No person shall operate a bicycle with electric assist on any public lands or property, other than a highway exclusive of any greenway running adjacent to or connected with a highway, except that a bicycle with electric assist may be operated on any such lands that have been designated and posted for travel by bicycles with electric assist in accordance with the provisions of paragraph (b) of this subdivision. For the purposes of this subdivision, the term "greenway" shall have the same meaning as such term is defined by subdivision seven of section

44-0103 of the environmental conservation law and subdivision one of section 39.03 of the parks, recreation and historic preservation law.

(b) A state agency, by regulation or order, and a city, town or village, by local law or ordinance, may designate any appropriate public lands and properties under its jurisdiction, other than highways exclusive of any greenway running adjacent to or connected with a highway, as a place open for travel by bicycles with electric assist upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of bicycles with electric assist on such public lands or property, such as travel on designated trails and hours of operation.

5. (a) No bicycle with electric assist shall be operated on a sidewalk, except as may be authorized by a local law or ordinance adopted by a city, town or village having jurisdiction over such sidewalk including parking on certain sidewalks within such city, town or village in compliance with the federal Americans with Disabilities Act of 1990, as amended (Public Law 101-336).

(b) (i) Notwithstanding the provisions of paragraph (a) of this subdivision, a bicycle with electric assist owned by a natural person where the owner is engaged in personal use may park on a sidewalk whether attended or unattended. A city, town or village having jurisdiction over such sidewalk shall provide a method by which a bicycle with electric assist owned by a natural person may be identified as such.

(ii) Notwithstanding the provisions of paragraph (a) of this subdivision, a bicycle with electric assist used to transport property in commerce may temporarily park on a sidewalk, whether attended or unattended, for the purpose of and while actually engaged commercially in the loading or unloading of property. A city, town or village having jurisdiction over such sidewalk shall provide a method by which a bicycle with electric assist used to transport property in commerce may be identified as such.

(iii) No person shall park a bicycle with electric assist pursuant to this paragraph in a manner that interferes with the free passage of pedestrians on a sidewalk.

6. Every person operating a bicycle with electric assist shall yield the right of way to pedestrians.

7. Notwithstanding the provisions of subdivision (b) of section twelve hundred thirty-four of this article to the contrary, persons operating bicycles with electric assist upon a roadway shall ride single file.

8. Except as may be otherwise provided by local law, ordinance, order, rule or regulation enacted or promulgated pursuant to this article, a bicycle with electric assist may only be operated on highways with a posted speed limit of thirty miles per hour or less, including non-interstate public highways, private roads open to motor vehicle traffic, and designated bicycle or in-line skate lanes.

9. No person shall operate a class one or class two bicycle with electric assist in excess of twenty miles per hour. No person shall operate a class three bicycle with electric assist in excess of twenty-five miles per hour.

10. The operation of a class three bicycle with electric assist outside of a city having a population of one million or more is prohibited.

11. (a) No person, firm, association or corporation engaged in the business of selling or leasing bicycles with electric assist shall sell or lease any bicycle with electric assist on or after June first, two thousand twenty-two unless such bicycle with electric assist has permanently affixed thereto, in a prominent location, a manufacturer's label which shall include the following information: the class, maximum motor-assisted speed, and motor wattage of such bicycle with electric assist. Manufacturers and distributors of bicycles with electric assist shall, by April first, two thousand twenty-two, establish a process by which an owner of a bicycle with electric assist may request and obtain a manufacturer's label providing the class, maximum motor-assisted speed, and motor wattage applicable to his or her bicycle with electric assist purchased prior to June first, two thousand twenty-two and installation instructions from such manufacturers and distributors.

(b) No person shall operate a bicycle with electric assist on any public highway or street in this state after June first, two thousand twenty-two unless such bicycle with electric assist has permanently affixed thereto, in a prominent location, a manufacturer's label providing the class, maximum motor-assisted speed, and motor wattage of such bicycle with electric assist. Any person who violates the provisions of this paragraph shall be punished by a civil fine of up to fifty dollars. The court shall waive any fine for which a person who violates the provisions of this paragraph would be liable if such person supplies the court with proof that, between the date on which he or she is charged with having violated this paragraph and the appearance date for such violation, a manufacturer's label was affixed to his or her bicycle with electric assist as required by this paragraph. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this paragraph.

12. A violation of the provisions of subdivision two, five, six, nine, or ten of this section shall result in a civil fine not to exceed fifty dollars.

13. A police officer shall only issue a summons for a violation of this section by a person less than sixteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or older. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than sixteen years of age.

§ 1242-a. Operation of a bicycle with electric assist while under the influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) Operating a bicycle with electric assist while ability impaired. No person shall operate a bicycle with electric assist while the person's ability to operate such bicycle with electric assist is impaired by the consumption of alcohol.

(i) A violation of this paragraph shall be a traffic infraction and shall be punishable by a fine of not more than three hundred dollars, or

by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment.

(ii) A person who operates a bicycle with electric assist in violation of this paragraph after having been convicted of a violation of any paragraph of this subdivision within the preceding five years shall be punished by a fine of not more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment.

(iii) A person who operates a bicycle with electric assist in violation of this paragraph after being convicted two or more times of a violation of any paragraph of this subdivision within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one thousand dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such fine and imprisonment.

(b) Operating a bicycle with electric assist while intoxicated; per se. No person shall operate a bicycle with electric assist while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of subdivision five of this section.

(c) Operating a bicycle with electric assist while intoxicated. No person shall operate a bicycle with electric assist while in an intoxicated condition.

(d) Operating a bicycle with electric assist while ability impaired by drugs. No person shall operate a bicycle with electric assist while the person's ability to operate such bicycle with electric assist is impaired by the use of a drug as defined in this chapter.

(e) Operating a bicycle with electric assist while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate a bicycle with electric assist while the person's ability to operate such bicycle with electric assist is impaired by the combined influence of drugs or of alcohol and any drug or drugs.

(f) Penalty. (i) A violation of paragraph (b), (c), (d) or (e) of this subdivision shall be a misdemeanor and shall be punishable by a fine of not more than five hundred dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and

imprisonment.

(ii) A person who operates a bicycle with electric assist in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision within the preceding ten years shall be guilty of a class E felony, and shall be punished by a fine of not more than one thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(iii) A person who operates a bicycle with electric assist in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision two or more times within the preceding ten years shall be guilty of a class E felony, and shall be punished by a fine of not more than four thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

2. Certain sentences prohibited. Notwithstanding any provisions of the penal law, no judge or magistrate shall impose a sentence of unconditional discharge for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section.

3. Sentencing; previous convictions. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (ii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (iii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of subparagraph (ii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of

this title within the preceding five years. When sentencing a person for a violation of subparagraph (iii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding ten years.

4. Arrest and field testing. (a) Arrest. Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of any paragraph of subdivision one of this section, if such violation is coupled with an accident or collision in which such person is involved, which in fact had been committed, though not in the police officer's presence, when the officer has reasonable cause to believe that the violation was committed by such person. For the purposes of this subdivision, police officer shall also include a peace officer authorized to enforce this chapter when the alleged violation constitutes a crime.

(b) Field testing. Every person operating a bicycle with electric assist which has been involved in an accident shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision five of this section.

5. Chemical tests; when authorized. A police officer may request any person who operates a bicycle with electric assist in this state to consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of such person's blood, provided that such test is administered at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer: (a) having reasonable grounds to believe such person to have been operating in violation of paragraph (a), (b), (c), (d) or (e) of subdivision one of this section and within two hours after such person has been placed under arrest for any such violation; or (b) within two hours after a breath test, as provided in paragraph (b) of subdivision four of this

section, indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member.

6. Testing procedures. (a) Persons authorized to withdraw blood; immunity; testimony. (i) At the request of a police officer, the following persons may withdraw blood for the purpose of determining the alcoholic or drug content therein: (A) a physician, a registered professional nurse, a registered physician assistant, a certified nurse practitioner, or an advanced emergency medical technician as certified by the department of health; or (B) under the supervision and at the direction of a physician, registered physician assistant or certified nurse practitioner acting within his or her lawful scope of practice, or upon the express consent of the person eighteen years of age or older from whom such blood is to be withdrawn: a clinical laboratory technician or clinical laboratory technologist licensed pursuant to article one hundred sixty-five of the education law; a phlebotomist; or a medical laboratory technician or medical technologist employed by a clinical laboratory approved under title five of article five of the public health law. This limitation shall not apply to the taking of a urine, saliva or breath specimen.

(ii) No person entitled to withdraw blood pursuant to subparagraph (i) of this paragraph or hospital employing such person, and no other employer of such person shall be sued or held liable for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to this section.

(iii) Any person who may have a cause of action arising from the withdrawal of blood as aforesaid, for which no personal liability exists under subparagraph (ii) of this paragraph, may maintain such action against the state if any person entitled to withdraw blood pursuant to this paragraph acted at the request of a police officer employed by the state, or against the appropriate political subdivision of the state if such person acted at the request of a police officer employed by a political subdivision of the state. No action shall be maintained pursuant to this subparagraph unless notice of claim is duly filed or served in compliance with law.

(iv) Notwithstanding subparagraphs (i), (ii) and (iii) of this

paragraph, an action may be maintained by the state or a political subdivision thereof against a person entitled to withdraw blood pursuant to subparagraph (i) of this paragraph or hospital employing such person for whose act or omission the state or the political subdivision has been held liable under this paragraph to recover damages, not exceeding the amount awarded to the claimant, that may have been sustained by the state or the political subdivision by reason of gross negligence or bad faith on the part of such person.

(v) The testimony of any person other than a physician, entitled to withdraw blood pursuant to subparagraph (i) of this paragraph, in respect to any such withdrawal of blood made by such person may be received in evidence with the same weight, force and effect as if such withdrawal of blood were made by a physician.

(vi) The provisions of subparagraphs (ii), (iii) and (iv) of this paragraph shall also apply with regard to any person employed by a hospital as security personnel for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to this section.

(b) Right to additional test. The person tested shall be permitted to choose a physician to administer a chemical test in addition to the one administered at the direction of the police officer.

(c) Rules and regulations. The department of health shall issue and file rules and regulations approving satisfactory techniques or methods of conducting chemical analyses of a person's blood, urine, breath or saliva and to ascertain the qualifications and competence of individuals to conduct and supervise chemical analyses of a person's blood, urine, breath or saliva. If the analyses were made by an individual possessing a permit issued by the department of health, this shall be presumptive evidence that the examination was properly given. The provisions of this paragraph do not prohibit the introduction as evidence of an analysis made by an individual other than a person possessing a permit issued by the department of health.

7. Chemical test evidence. (a) Admissibility. Upon the trial of any such action or proceeding arising out of actions alleged to have been committed by any person arrested for a violation of any paragraph of subdivision one of this section, the court shall admit evidence of the

amount of alcohol or drugs in the defendant's blood as shown by a test administered pursuant to the provisions of subdivision five of this section.

(b) Probative value. The following effect shall be given to evidence of blood-alcohol content, as determined by such tests, of a person arrested for a violation of subdivision one of this section:

(i) evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall be prima facie evidence that the ability of such person to operate a bicycle with electric assist was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition;

(ii) evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be relevant evidence, but shall not be given prima facie effect, in determining whether the ability of such person to operate a bicycle with electric assist was impaired by the consumption of alcohol; and

(iii) evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate a bicycle with electric assist was impaired by the consumption of alcohol.

8. Where applicable. The provisions of this section shall apply upon public highways, private roads open to motor vehicle traffic, any other parking lot, and sidewalks. For the purposes of this section "parking lot" shall mean any area or areas of private property, including a driveway, near or contiguous to and provided in connection with premises and used as a means of access to and egress from a public highway to such premises and having a capacity for the parking of four or more motor vehicles. The provisions of this section shall not apply to any area or areas of private property comprising all or part of property on which is situated a one or two-family residence.

9. Enforcement upon crash. Notwithstanding any provision of this

section, no part of this section may be enforced unless in conjunction with a crash involving an operator of a bicycle with electric assist. For the purposes of this subdivision, "crash" shall mean colliding with a vehicle, person, building or other object.

§ 1243. Shared bicycle and shared bicycle with electric assist systems; data protection. 1. The governing body of any city, town or village may, by local law, ordinance, order, rule or regulation, authorize and regulate shared bicycle systems or shared bicycle with electric assist systems within such city, town or village. No such shared systems shall operate within a city, town or village except as authorized by such local law, ordinance, order, rule or regulation. For the purposes of this subdivision, the term shared bicycle system or shared bicycle with electric assist system shall mean a network of self-service and publicly available bicycles or bicycles with electric assist in which a bicycle or bicycle with electric assist trip begins and/or ends on any public highway.

2. Notwithstanding any other provision of law to the contrary, all trip data, personal information, images, videos, and other recorded images collected by any shared bicycle system or shared bicycle with electric assist system which is authorized to operate within a city, town or village pursuant to this section: (a) shall be for the exclusive use of such shared bicycle or shared bicycle with electric assist system and shall not be sold, distributed, or otherwise made available for any commercial purpose and (b) shall not be disclosed or otherwise made accessible except (i) to the person who is the subject of such data, information or record; or (ii) if necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual data, information or records properly issued pursuant to the criminal procedure law or the civil practice law and rules. Provided, however, that nothing contained in this paragraph shall be deemed to preclude the exchange of such data, information or recorded images solely for the purpose of administering such authorized shared system. For the purposes of this subdivision, "personal information" shall mean

information that identifies an individual, including but not limited to name, address, telephone number, and the type and form of payment including credit card number, debit card number, or other payment method.

ARTICLE 34-A

OPERATION OF MOTORCYCLES

Section 1250. Traffic laws apply to persons operating motorcycles.
1251. Riding on motorcycles.
1252. Operating motorcycles on roadways laned for traffic.
1253. Clinging to other vehicles.

§ 1250. Traffic laws apply to persons operating motorcycles. Every person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

§ 1251. Riding on motorcycles. (a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

(b) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle, unless said person is seated in a sidecar affixed to said motorcycle.

(c) No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him from keeping both hands on the handlebars.

(d) No operator shall carry any person, nor shall any person ride, in

a position that will interfere with the operation or control of the motorcycle or the view of the operator.

§ 1252. Operating motorcycles on roadways laned for traffic. (a) All motorcycles are entitled to full use of a lane and no motor vehicle or motorcycle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. However, this subsection shall not be construed to prevent motorcycles from being operated two abreast in a single lane.

(b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) Motorcycles shall not be operated more than two abreast in a single lane.

(e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.

§ 1253. Clinging to other vehicles. No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle or streetcar on a roadway.

ARTICLE 34-B
RIDING HORSES

Section 1260. Effect of regulations.
1261. Traffic laws apply to persons riding or leading horses.
1262. Riding on roadways, shoulders and horse paths.
1263. Carrying articles.
1264. Ban on night riding.
1265. Wearing of helmets.

§ 1260. Effect of regulations. (a) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such

child or ward to violate any of the provisions of this article.

(b) These regulations applicable to horses shall apply whenever a horse is ridden or led upon any highway and upon private roads open to public motor vehicle traffic.

§ 1261. Traffic laws apply to persons riding or leading horses. Every person riding or leading a horse upon a roadway shall be granted all rights and shall be subject to all the duties applicable to the driver of a vehicle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

§ 1262. Riding on roadways, shoulders and horse paths. (a) Upon all roadways, horses shall be ridden or led either near the right hand curb or edge of the roadway or upon a usable right-hand shoulder, lane or path in such a manner as to prevent undue interference with the flow of traffic.

(b) Persons riding or leading horses upon a roadway shall do so single file.

(c) Any person riding or leading a horse who is entering the roadway from a private road, driveway, alley or over a curb shall bring the horse to a full stop before entering the roadway.

§ 1263. Carrying articles. No person riding or leading a horse shall carry any package, bundle, or article which prevents such person from keeping at least one hand upon the reins.

§ 1264. Ban on night riding. No person shall ride or lead a horse upon a roadway during the period from one-half hour after sunset to one-half hour before sunrise. The provisions of this section shall not apply to horse-drawn carriages or carts or police officers, peace officers or park rangers mounted on horseback.

§ 1265. Wearing of helmets. 1. No person less than eighteen years of age shall ride a horse unless such person is wearing a helmet meeting or exceeding ASTM F1163 (Safety Equipment Institute certified) Equestrian Standard. For purposes of this section, "certified" shall mean that the helmet's manufacturer agrees to the rules and provisions of a system that includes independent testing and quality control audits, and that each helmet manufactured by such manufacturer is permanently marked with the certifying body's registered mark or logo before such helmet is sold or offered for sale. For the purposes of this section, wearing a helmet means having a helmet fastened securely upon the head using the manufacturer's fitting guidelines for the particular model used.

2. Any person who violates the provisions of this section shall pay a civil fine not to exceed two hundred fifty dollars. A police officer shall only issue a summons for a violation of this section by a person less than eighteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than eighteen years of age.

3. (a) The court shall waive any civil fine for which a person who violates the provisions of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet.

(b) The court may waive any civil fine for which a person who violates the provisions of the section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet.

4. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in

any way diminish or reduce the damages recoverable in any such action.

ARTICLE 34-C

OPERATION OF ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

Section 1270. Effect of regulations.
1271. Traffic laws apply to persons operating electric personal assistive mobility devices; local laws.
1272. Operating electric personal assistive mobility devices.
1273. Clinging to vehicles.
1274. Riding on roadways, shoulders and lanes reserved for non-motorized vehicles and devices.
1275. Lamps and other equipment.
1276. Operators to wear protective headgear.
1277. Leaving the scene of an incident involving an electric personal assistive mobility device without reporting.

§ 1270. Effect of regulations. 1. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

2. These regulations applicable to electric personal assistive mobility devices shall apply whenever an electric personal assistive mobility device, pursuant to section twelve hundred seventy-one of this article, is operated upon any highway, upon private roads open to public motor vehicle traffic, upon any designated bicycle or in-line skate lane. Additionally, if the governing body of any county not wholly included within a city, city with a population of less than one million, town or village which authorizes the use of electric personal assistive mobility devices upon any place not specifically authorized by this article, such as sidewalks these regulations shall be applicable thereon.

§ 1271. Traffic laws apply to persons operating electric personal assistive mobility devices; local laws. 1. Except in cities with a

population of one million or more and except as provided by local law, ordinance, order, rule or regulation enacted or promulgated pursuant to subdivision two of this section, an electric personal assistive mobility device may only be operated on highways with a posted speed limit of thirty miles per hour or less, including non-interstate public highways, private roads open to motor vehicle traffic, and designated bicycle or in-line skate lanes. Every person operating an electric personal assistive mobility device upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application; provided, however, that when the operator of an electric personal assistive mobility device is making a left turn at or crossing an intersection, such operator shall use the designated crosswalk for such purpose.

2. (a) The governing body of any county not wholly included within a city, city with a population of less than one million, town or village may, by local law, ordinance, order, rule or regulation, further regulate the time, place and manner of the operation of electric personal assistive mobility devices including authorizing the use of electric personal assistive mobility devices on sidewalks, and limiting, prohibiting entirely or prohibiting the use thereof in specified areas under the jurisdiction of such county not wholly included within a city, city with a population of less than one million, town or village.

(b) The operation of electric personal assistive mobility devices in a city having a population of one million or more is prohibited.

§ 1272. Operating electric personal assistive mobility devices. 1. No electric personal assistive mobility device shall be used to carry more persons at one time than the number for which such device is designed and equipped. No person operating an electric personal assistive mobility device shall carry any person as a passenger in a pack fastened to the operator or fastened to such device.

2. No person shall operate an electric personal assistive mobility

device outside during the period of time between one-half hour after sunset and one-half hour before sunrise unless such person is wearing readily visible reflective clothing or material which is of a light or bright color.

3. No person operating an electric personal assistive mobility device shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handle bars or which obstructs his or her vision in any direction.

4. Every person operating an electric personal assistive mobility device shall yield the right of way to pedestrians and motor vehicles.

5. Every operator of an electric personal assistive mobility device shall be sixteen years of age or older.

6. No person shall operate an electric personal assistive mobility device in a state park or historic site.

7. If the governing body of any county not wholly included within a city, city with a population of less than one million, town or village shall authorize the use of electric personal assistive mobility devices upon any sidewalk, such authorization shall not permit the operation thereof at a speed in excess of eight miles per hour. Additionally, if such authorization is granted, no operator of an electric personal assistive mobility device shall overtake a pedestrian on a sidewalk unless there is adequate space for the personal assistive mobility device to pass around the pedestrian and warning is given to such pedestrian through the audible device defined in subdivision two of section twelve hundred seventy-five of this article.

8. A first violation of the provisions of this section shall result in no fine. A second or subsequent violation shall result in a civil fine not to exceed fifty dollars.

§ 1273. Clinging to vehicles. 1. No person operating an electric

personal assistive mobility device shall attach such device, or himself or herself to any vehicle being operated upon a roadway.

2. No vehicle operator shall knowingly permit any person to attach any electric personal assistive mobility device or himself or herself to such operator's vehicle in violation of subdivision one of this section.

§ 1274. Riding on roadways, shoulders and lanes reserved for non-motorized vehicles and devices. 1. Upon all roadways, any electric personal assistive mobility device shall be operated either on a usable bicycle or in-line skate lane or, if a usable bicycle or in-line skate lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing to enter into a crosswalk to turn left at or to cross an intersection or when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge of the roadway. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, in-line skaters, pedestrians, animals, surface hazards and traffic lanes too narrow for an electric personal assistive mobility device and a vehicle to travel safely side-by-side within the lane.

2. Persons operating electric personal assistive mobility devices upon a roadway shall ride single file. Persons operating electric personal assistive mobility devices upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skate path, intended for the use of bicycles, electric personal assistive mobility devices or in-line skates may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle, electric personal assistive mobility device, person on in-line skates or pedestrian standing or proceeding along such shoulder, lane or path, persons operating electric personal assistive mobility devices shall operate such devices in single file.

3. Any person operating an electric personal assistive mobility device

who is entering the roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

§ 1275. Lamps and other equipment. 1. Every electric personal assistive mobility device when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible during hours of darkness from a distance of at least five hundred feet to the front and with a red light visible to the rear for three hundred feet. At least one of these lights shall be visible for two hundred feet from each side.

2. No person shall operate an electric personal assistive mobility device unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that such device shall not be equipped with nor shall any person use upon such device any siren or whistle.

3. Every electric personal assistive mobility device shall be equipped with a system that enables the operator to bring the device to a controlled stop.

§ 1276. Operators to wear protective headgear. 1. No person shall ride upon, propel or otherwise operate an electric personal assistive mobility device unless such person is wearing a helmet meeting standards established by the commissioner pursuant to the provisions of subdivision two-a of section twelve hundred thirty-eight of this title. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

2. Any person who violates the provisions of subdivision one of this section shall pay a civil fine not to exceed fifty dollars.

3. The court shall waive any fine for which a person who violates the

provisions of subdivision one of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet, which meets the requirements of subdivision one of this section, or if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law or a local distribution program. Such waiver of fine shall not apply to a second or subsequent conviction under subdivision one of this section.

4. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

5. A police officer shall only issue a summons for a violation of subdivision one of this section by a person less than fourteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or older. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than fourteen years of age.

§ 1277. Leaving the scene of an incident involving an electric personal assistive mobility device without reporting. 1. (a) Any person eighteen years of age or older operating an electric personal assistive mobility device who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric personal assistive mobility device by such person shall, before leaving the place where such physical injury occurred, stop and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the

event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

(b) A violation of paragraph (a) of this subdivision shall be a violation.

2. (a) Any person eighteen years of age or older operating an electric personal assistive mobility device who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric personal assistive mobility device by such person shall, before leaving the place where such serious physical injury occurred, stop and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

(b) A violation of paragraph (a) of this subdivision shall be a class B misdemeanor.

ARTICLE 34-D
OPERATION OF ELECTRIC SCOOTERS

Section 1280. Effect of regulations.
1281. Traffic laws apply to persons operating electric scooters; local laws.
1282. Operating electric scooters.
1283. Clinging to vehicles.
1284. Riding on roadways, shoulders, and lanes reserved for non-motorized vehicles and devices.
1285. Lamps and other equipment.
1286. Operators to wear protective headgear.
1287. Leaving the scene of an incident involving an electric scooter without reporting in the second degree.
1288. Leaving the scene of an incident involving an electric scooter without reporting in the first degree.

1289. Operation of an electric scooter while under the influence of alcohol or drugs.

§ 1280. Effect of regulations. 1. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

2. These regulations applicable to electric scooters shall apply whenever an electric scooter is operated upon any highway, upon private roads open to public motor vehicle traffic and upon any path set aside for the exclusive use of bicycles, in-line skates, electric scooters, or all.

§ 1281. Traffic laws apply to persons operating electric scooters; local laws. 1. Every person riding an electric scooter upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle and the rider of a bicycle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

2. (a) Except as provided in paragraphs (b) and (c) of this subdivision, the governing body of any city, town or village may, by local law or ordinance, further regulate the time, place and manner of the operation of electric scooters, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of electric scooters, and may limit, prohibit the use thereof in specified areas, or prohibit entirely the use of electric scooters within such city, town, or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.

(b) The governing body of any city, town or village in the counties of Nassau or Suffolk may, by local law or ordinance, further regulate the time, place and manner of the operation of electric scooters, including, but not limited to, maximum speed, requiring the use of protective

headgear, and the wearing of readily visible reflective clothing or material by operators of electric scooters only after adoption of a local law or ordinance by the governing body of the county in which the city, town or village is located. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a city, town or village in the counties of Nassau or Suffolk pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of electric scooters in specified areas, or prohibit entirely the use of electric scooters within such city, town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.

(c) The governing body of any town or village in the county of Westchester may, by local law or ordinance, further regulate the time, place and manner of the operation of electric scooters, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of electric scooters only after adoption of a local law or ordinance by the governing body of Westchester county. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a town or village in the county of Westchester pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of electric scooters in specified areas, or prohibit entirely the use of electric scooters within such town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.

3. No person shall operate an electric scooter unless such operation is in compliance with the provisions of this chapter, and any regulation or order or local law or ordinance adopted pursuant to this article.

§ 1282. Operating electric scooters. 1. No electric scooter shall be used to carry more than one person at one time. No person operating an electric scooter shall carry any person as a passenger in a pack fastened to the operator or fastened to the electric scooter. The failure of any person to comply with the provisions of this subdivision shall not constitute contributory negligence or assumption of risk, and

shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

2. No person operating an electric scooter shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handle bars or which obstructs his or her vision in any direction.

3. Every person operating an electric scooter shall yield the right of way to pedestrians.

4. No person less than sixteen years of age shall operate or ride as a passenger upon an electric scooter, and no person sixteen years of age or older shall allow any person less than sixteen years of age to operate or ride as a passenger upon such scooter.

5. Except as may be otherwise provided by local law, ordinance, order, rule or regulation enacted or promulgated pursuant to this article, an electric scooter may only be operated on highways with a posted speed limit of thirty miles per hour or less, including non-interstate public highways, private roads open to motor vehicle traffic, and designated bicycle or in-line skate lanes.

6. No person shall operate an electric scooter in excess of fifteen miles per hour.

7. (a) No person shall operate an electric scooter on a sidewalk, except as may be authorized by a local law or ordinance adopted by a city, town or village having jurisdiction over such sidewalk including parking on certain sidewalks within such city, town or village in compliance with the federal Americans with Disabilities Act of 1990, as amended (Public Law 101-336).

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an electric scooter owned by a natural person where the owner is engaged in personal use may park on a sidewalk whether attended or unattended, provided however that no person shall park an electric

scooter pursuant to this paragraph in a manner that interferes with the free passage of pedestrians on a sidewalk. A city, town or village having jurisdiction over such sidewalk shall provide a method by which an electric scooter owned by a natural person may be identified as such.

8. (a) No person shall operate an electric scooter on any public lands or property, other than a highway exclusive of any greenway running adjacent to or connected with a highway, except that an electric scooter may be operated on any such lands that have been designated and posted for travel by electric scooters in accordance with the provisions of paragraph (b) of this subdivision. For the purposes of this subdivision, the term "greenway" shall have the same meaning as such term is defined by subdivision seven of section 44-0103 of the environmental conservation law and subdivision one of section 39.03 of the parks, recreation and historic preservation law.

(b) A state agency, by regulation or order, and a city, town or village, by local law or ordinance, may designate any appropriate public lands and properties under its jurisdiction, other than highways exclusive of any greenway running adjacent to or connected with a highway, as a place open for travel by electric scooters upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of electric scooters on such public lands or property, such as travel on designated trails and hours of operation.

9. (a) No person, firm, association or corporation engaged in the business of selling or leasing electric scooters shall sell or lease any electric scooter on or after June first, two thousand twenty-two unless such electric scooter has permanently affixed thereto, in a prominent location, a manufacturer's label which shall include the following information: the maximum motor-assisted speed, the number of persons for which such electric scooter is designed and equipped, and motor wattage of such electric scooter. Manufacturers and distributors of electric scooters shall, by April first, two thousand twenty-two, establish a process by which an owner of an electric scooter may request and obtain a manufacturer's label providing the maximum motor-assisted speed, the number of persons for which such electric scooter is designed and

equipped, and motor wattage applicable to his or her electric scooter purchased prior to June first, two thousand twenty-two and installation instructions from such manufacturers and distributors.

(b) No person shall operate an electric scooter on any public highway or street in this state after June first, two thousand twenty-two unless such electric scooter has permanently affixed thereto, in a prominent location, a manufacturer's label providing the maximum motor-assisted speed, the number of persons for which such electric scooter is designed and equipped, and motor wattage of such electric scooter. Any person who violates the provisions of this paragraph shall be punished by a civil fine of up to fifty dollars. The court shall waive any fine for which a person who violates the provisions of this paragraph would be liable if such person supplies the court with proof that, between the date on which he or she is charged with having violated this paragraph and the appearance date for such violation, a manufacturer's label was affixed to his or her electric scooter as required by this paragraph. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this paragraph.

10. (a) The governing body of any city, town or village may, by local law, ordinance, order, rule or regulation, authorize and regulate shared electric scooter systems within such city, town or village. No such shared systems shall operate within a city, town or village except as authorized by such local law, ordinance, order, rule or regulation. No such shared electric scooter system shall operate on public highways in a county with a population of no less than one million five hundred eighty-five thousand and no more than one million five hundred eighty-seven thousand as of the two thousand ten decennial census. For the purposes of this subdivision, the term shared electric scooter system shall mean a network of self-service and publicly available electric scooters, and related infrastructure, in which an electric scooter trip begins and/or ends on any public highway.

(b) Notwithstanding any other provision of law to the contrary, all trip data, personal information, images, videos, and other recorded images collected by any shared electric scooter system which is authorized to operate within a city, town or village pursuant to this section: (i) shall be for the exclusive use of such shared electric

scooter system and shall not be sold, distributed or otherwise made available for any commercial purpose and (ii) shall not be disclosed or otherwise made accessible except: (1) to the person who is the subject of such data, information or record; or (2) if necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual data, information or records properly issued pursuant to the criminal procedure law or the civil practice law and rules. Provided, however, that nothing contained in this paragraph shall be deemed to preclude the exchange of such data, information or recorded images solely for the purpose of administering such authorized shared system.

For the purposes of this subdivision, "personal information" shall mean information that identifies an individual, including but not limited to name, address, telephone number, and the type and form of payment including credit card number, debit card number, or other payment method.

11. A violation of the provisions of subdivision one, two, three, four, six, or seven of this section shall result in a civil fine not to exceed fifty dollars.

12. A police officer shall only issue a summons for a violation of this section by a person less than sixteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than sixteen years of age.

§ 1283. Clinging to vehicles. 1. No person operating an electric scooter shall attach such scooter, or himself or herself, to any vehicle being operated upon a roadway.

2. No vehicle operator shall knowingly permit any person to attach any

electric scooter, or himself or herself, to such operator's vehicle in violation of subdivision one of this section.

§ 1284. Riding on roadways, shoulders, and lanes reserved for non-motorized vehicles and devices. 1. Upon all roadways, any electric scooter shall be operated either on a usable bicycle or in-line skate lane or, if a usable bicycle or in-line skate lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing for a left turn or when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, in-line skates, pedestrians, animals, surface hazards or traffic lanes too narrow for a person operating an electric scooter and a vehicle to travel safely side-by-side within the lane.

2. Persons operating electric scooters upon a roadway shall ride single file. Persons operating electric scooters upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skate path intended for the use of bicycles, in-line skates or electric scooters may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle, electric personal assistive mobility device, person on in-line skates or pedestrian standing or proceeding along such shoulder, lane or path, persons operating electric scooters shall operate such scooters single file.

3. Any person operating an electric scooter who is entering a roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

§ 1285. Lamps and other equipment. 1. Every electric scooter when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with a lamp on the front which shall

emit a white light visible during hours of darkness from a distance of at least five hundred feet to the front and with a red light visible to the rear for three hundred feet. At least one such light shall be visible for two hundred feet from each side.

2. No person shall operate an electric scooter unless such scooter is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that an electric scooter shall not be equipped with nor shall any person use upon an electric scooter any siren or whistle.

3. Every electric scooter shall be equipped with a brake that enables the operator to bring the electric scooter to a controlled stop.

§ 1286. Operators to wear protective headgear. 1. No person sixteen or seventeen years of age shall ride upon, propel or otherwise operate an electric scooter unless such person is wearing a helmet meeting standards established by the commissioner pursuant to the provisions of subdivision two-a of section twelve hundred thirty-eight of this title. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

2. Any person who violates the provisions of subdivision one of this section shall pay a civil fine not to exceed fifty dollars.

3. The court shall waive any fine for which a person who violates the provisions of subdivision one of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet, which meets the requirements of subdivision one of this section, or if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law or a local distribution

program. Such waiver of fine shall not apply to a second or subsequent violation of subdivision one of this section.

4. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

§ 1287. Leaving the scene of an incident involving an electric scooter without reporting in the second degree. 1. Any person age eighteen years or older operating an electric scooter who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric scooter by such person, shall, before leaving the place where such physical injury occurred, stop, and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report such incident as soon as physically able to the nearest police station or judicial officer.

2. Leaving the scene of an incident involving an electric scooter without reporting in the second degree is a violation.

§ 1288. Leaving the scene of an incident involving an electric scooter without reporting in the first degree. 1. Any person age eighteen years or older operating an electric scooter who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric scooter by such person, shall, before leaving the place where such serious physical injury occurred, stop, and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of

the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

2. Leaving the scene of an incident involving an electric scooter without reporting in the first degree is a class B misdemeanor.

§ 1289. Operation of an electric scooter while under the influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) Operating an electric scooter while ability impaired. No person shall operate an electric scooter while the person's ability to operate such electric scooter is impaired by the consumption of alcohol.

(i) A violation of this paragraph shall be a traffic infraction and shall be punishable by a fine of not more than three hundred dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment.

(ii) A person who operates an electric scooter in violation of this paragraph after having been convicted of a violation of any paragraph of this subdivision within the preceding five years shall be punished by a fine of not more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment.

(iii) A person who operates an electric scooter in violation of this paragraph after being convicted two or more times of a violation of any paragraph of this subdivision within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one thousand dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such fine and imprisonment.

(b) Operating an electric scooter while intoxicated; per se. No person shall operate an electric scooter while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of subdivision five of this section.

(c) Operating an electric scooter while intoxicated. No person shall operate an electric scooter while in an intoxicated condition.

(d) Operating an electric scooter while ability impaired by drugs. No person shall operate an electric scooter while the person's ability to operate such electric scooter is impaired by the use of a drug as defined in this chapter.

(e) Operating an electric scooter while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate an electric scooter while the person's ability to operate such electric scooter is impaired by the combined influence of drugs or of alcohol and any drug or drugs.

(f) Penalty. (i) A violation of paragraph (b), (c), (d) or (e) of this subdivision shall be a misdemeanor and shall be punishable by a fine of not more than five hundred dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment.

(ii) A person who operates an electric scooter in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision within the preceding ten years shall be guilty of a class E felony, and shall be punished by a fine of not more than one thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(iii) A person who operates an electric scooter in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision two or more times within the preceding ten years shall be guilty of a class E felony, and shall be punished by a fine of not more than four thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

2. Certain sentences prohibited. Notwithstanding any provisions of the penal law, no judge or magistrate shall impose a sentence of unconditional discharge for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section.

3. Sentencing: previous convictions. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (ii) of paragraph (f) of subdivision

one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (iii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of subparagraph (ii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding five years. When sentencing a person for a violation of subparagraph (iii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding ten years.

4. Arrest and field testing. (a) Arrest. Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of any paragraph of subdivision one of this section, if such violation is coupled with an accident or collision in which such person is involved, which in fact had been committed, though not in the police officer's presence, when the officer has reasonable cause to believe that the violation was committed by such person. For the purposes of this subdivision, police officer shall also include a peace officer authorized to enforce this chapter when the alleged violation constitutes a crime.

(b) Field testing. Every person operating an electric scooter which has been involved in an accident shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision five of this section.

5. Chemical tests; when authorized. A police officer may request any person who operates an electric scooter in this state to consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of such person's blood, provided that such test is administered at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer: (a) having reasonable grounds to believe such person to have been operating in violation of paragraph (a), (b), (c), (d) or (e) of subdivision one of this section and within two hours after such person has been placed under arrest for any such violation; or (b) within two hours after a breath test, as provided in paragraph (b) of subdivision four of this section, indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member.

6. Testing procedures. (a) Persons authorized to withdraw blood; immunity; testimony. (i) At the request of a police officer, the following persons may withdraw blood for the purpose of determining the alcoholic or drug content therein: (A) a physician, a registered professional nurse, a registered physician assistant, a certified nurse practitioner, or an advanced emergency medical technician as certified by the department of health; or (B) under the supervision and at the direction of a physician, registered physician assistant or certified nurse practitioner acting within his or her lawful scope of practice, or upon the express consent of the person eighteen years of age or older from whom such blood is to be withdrawn: a clinical laboratory technician or clinical laboratory technologist licensed pursuant to article one hundred sixty-five of the education law; a phlebotomist; or a medical laboratory technician or medical technologist employed by a clinical laboratory approved under title five of article five of the public health law. This limitation shall not apply to the taking of a urine, saliva or breath specimen.

(ii) No person entitled to withdraw blood pursuant to subparagraph one of this paragraph or hospital employing such person, and no other employer of such person shall be sued or held liable for any act done or omitted in the course of withdrawing blood at the request of a police

officer pursuant to this section.

(iii) Any person who may have a cause of action arising from the withdrawal of blood as aforesaid, for which no personal liability exists under subparagraph (ii) of this paragraph, may maintain such action against the state if any person entitled to withdraw blood pursuant to this paragraph acted at the request of a police officer employed by the state, or against the appropriate political subdivision of the state if such person acted at the request of a police officer employed by a political subdivision of the state. No action shall be maintained pursuant to this subparagraph unless notice of claim is duly filed or served in compliance with law.

(iv) Notwithstanding subparagraphs (i), (ii) and (iii) of this paragraph an action may be maintained by the state or a political subdivision thereof against a person entitled to withdraw blood pursuant to subparagraph (i) of this paragraph or hospital employing such person for whose act or omission the state or the political subdivision has been held liable under this paragraph to recover damages, not exceeding the amount awarded to the claimant, that may have been sustained by the state or the political subdivision by reason of gross negligence or bad faith on the part of such person.

(v) The testimony of any person other than a physician, entitled to withdraw blood pursuant to subparagraph (i) of this paragraph, in respect to any such withdrawal of blood made by such person may be received in evidence with the same weight, force and effect as if such withdrawal of blood were made by a physician.

(vi) The provisions of subparagraphs (ii), (iii) and (iv) of this paragraph shall also apply with regard to any person employed by a hospital as security personnel for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to this section.

(b) Right to additional test. The person tested shall be permitted to choose a physician to administer a chemical test in addition to the one administered at the direction of the police officer.

(c) Rules and regulations. The department of health shall issue and file rules and regulations approving satisfactory techniques or methods of conducting chemical analyses of a person's blood, urine, breath or saliva and to ascertain the qualifications and competence of individuals

to conduct and supervise chemical analyses of a person's blood, urine, breath or saliva. If the analyses were made by an individual possessing a permit issued by the department of health, this shall be presumptive evidence that the examination was properly given. The provisions of this paragraph do not prohibit the introduction as evidence of an analysis made by an individual other than a person possessing a permit issued by the department of health.

7. Chemical test evidence. (a) Admissibility. Upon the trial of any such action or proceeding arising out of actions alleged to have been committed by any person arrested for a violation of any paragraph of subdivision one of this section, the court shall admit evidence of the amount of alcohol or drugs in the defendant's blood as shown by a test administered pursuant to the provisions of subdivision five of this section.

(b) Probative value. The following effect shall be given to evidence of blood-alcohol content, as determined by such tests, of a person arrested for a violation of subdivision one of this section:

(i) evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall be prima facie evidence that the ability of such person to operate an electric scooter was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition;

(ii) evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be relevant evidence, but shall not be given prima facie effect, in determining whether the ability of such person to operate an electric scooter was impaired by the consumption of alcohol; and

(iii) evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate an electric scooter was impaired by the consumption of alcohol.

8. Where applicable. The provisions of this section shall apply upon public highways, private roads open to motor vehicle traffic, any other parking lot, and sidewalks. For the purposes of this section "parking lot" shall mean any area or areas of private property, including a driveway, near or contiguous to and provided in connection with premises and used as a means of access to and egress from a public highway to such premises and having a capacity for the parking of four or more motor vehicles. The provisions of this section shall not apply to any area or areas of private property comprising all or part of property on which is situated a one or two family residence.

9. Enforcement upon crash. Notwithstanding any provision of this section, no part of this section may be enforced unless in conjunction with a crash involving an operator of an electric scooter. For the purposes of this subdivision, "crash" shall mean colliding with a vehicle, person, building or other object.

TITLE VIII

RESPECTIVE POWERS OF STATE AND LOCAL AUTHORITIES

Article 35. Uniform statewide application.
36. State department of transportation.
37. Regulation of traffic by department of transportation and other state authorities.
38. Regulation of traffic by public authorities and commissions.
39. Regulation of traffic by cities and villages.
40. Regulation of traffic by county superintendent of highways.
41. Regulation of traffic by towns.
42. Regulation of traffic by local authorities and school districts.
43. Traffic safety boards.
43-A. Special traffic options program for driving while intoxicated.
44. Traffic-control devices.
44-A. Authority of the Nassau and Suffolk county district court

judicial hearing officers.
44-B. Transportation network company services.
44-C. Central business district tolling program.

ARTICLE 35

UNIFORM STATEWIDE APPLICATION

Section 1600. Provisions of chapter uniform throughout state.
1601. Rights of owners of real property.
1602. Emergency rule.
1603. Delegation of powers.
1604. Local ordinances prohibited.

§ 1600. Provisions of chapter uniform throughout state. The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any local law, ordinance, order, rule or regulation in conflict with the provisions of this chapter unless expressly authorized herein. No local authority shall enact or duplicate any provision of this chapter as a local law, ordinance, order, rule or regulation, except that any local authority authorized to supersede any provision of this chapter may enact any such provision in a modified or amended form.

§ 1601. Rights of owners of real property. Nothing in this chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, or from requiring conditions additional to those specified in this chapter, or from otherwise regulating such use as may seem best to such owner.

§ 1602. Emergency rule. (a) Whenever a police officer shall deem it advisable during a fire or at the time of any accident or special emergency and only for such period of time as is necessitated thereby

for the public safety or convenience, temporarily to close any street or part thereof to vehicular traffic, or to vehicles of a certain description, or to divert the traffic thereof, or to divert or break a course of pedestrian traffic, such official shall have power and authority to do so.

(b) In the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians or property: any police officer or other person empowered to regulate traffic at the scene may, to the extent authorized by local law, ordinance, order, rule, regulation or administrative code provision adopted by local authorities with respect to highways within their corporate boundaries, direct traffic as conditions may require notwithstanding the provisions of this chapter or of local laws, ordinances, orders, rules, regulations, administrative code or sanitary code provisions regulating traffic; and, in addition, outside of cities and villages any member of the state police may direct traffic as conditions may require notwithstanding the provisions of this chapter or of local laws, ordinances, orders, rules or regulations regulating traffic.

(c) Whenever the head of any police force or police department or the chief executive officer of a city, town or village shall deem it advisable during a snow storm or in order to remove snow or to plow streets, provided that signs or markings giving notice are posted as required by section sixteen hundred eighty-three of this chapter, such head of the police force or police department or the chief executive officer of a city, town or village may close any street or part thereof to vehicular traffic or prohibit, restrict or limit the stopping, standing or parking of vehicles.

(d) The superintendent of the New York state police or the head of any police force or police department may authorize the temporary closure of any street or part thereof to vehicular traffic, or to vehicles of a certain description, or to divert the traffic thereof, or to divert or break a course of pedestrian traffic in the following situations:

1. during the time of any speed contest, exhibition of speed or similar special event which is being held pursuant to section eleven hundred eighty-two-a of this chapter;

2. during the time of the filming of any movie, commercial or similar event which is being undertaken pursuant to section eleven hundred eighty-two-b of this chapter.

§ 1603. Delegation of powers. (a) Any or all of the powers granted by this chapter to the legislative body of a city or village or to the New York state thruway authority, the office of parks, recreation and historic preservation, the department of environmental conservation, the department of agriculture and markets, the industrial exhibit authority, a county park commission, a parkway authority, a bridge authority or a bridge and tunnel authority may be delegated to any official, board or agency thereof designated by it or designated by law. If any authority or commission herein mentioned shall cease to exist, its powers as granted by this chapter shall devolve upon the state or municipal corporation succeeding to the property, functions, powers and duties of such authority or commission, as the case may be, and may be delegated by its legislative body to any official, board or agency thereof as designated by it or by law.

(b) Any or all of the powers to adopt orders, rules or regulations granted by this chapter to the legislative body of any city having a population in excess of one million, whether through provisions applicable to cities generally or applicable specifically to any such city, may be exercised in such city, with respect to any highway, park, bridge or tunnel therein, except as otherwise provided in subsection (c) of this section, by any official, board or agency thereof authorized by law, immediately prior to the effective date of this section, to promulgate traffic regulations with respect to such place, unless and until any such power shall be transferred to any other official, board or agency of such city by local law or state statute.

(c) Any or all of the powers to adopt orders, rules, regulations or health code provisions in relation to transportation of combustibles, chemicals, explosives, inflammables or other dangerous substances, articles, compounds or mixtures granted by this title to the legislative body of any city having a population in excess of one million may be exercised by the official, board or agency having the power immediately prior to the effective date of this section, to promulgate regulations

or health code provisions governing such matters, unless and until a different official, board or agency is designated by local law or state statute to exercise such power.

(d) In any case where any provision of this title grants to the legislative body of any city having a population in excess of one million any power to adopt orders, rules, regulations or health code provisions not possessed by such legislative body or any official, board or agency of such city, immediately prior to the effective date of this section, such power may be exercised by the official, board or agency authorized by law, immediately prior to the effective date of this section, to promulgate traffic regulations applicable generally throughout such city, unless and until a different official, board or agency is designated by local law or state statute to exercise such power, provided that any such power with respect to any park or highway under the jurisdiction of a commissioner of parks or a department of parks, shall be exercised by the official, board or agency having the power, immediately prior to the effective date of this section, to promulgate traffic regulations with respect to such park or highway, unless and until a different official, board or agency is designated by local law or state statute to exercise such power, and provided further that any such power in relation to transportation of combustibles, chemicals, explosives, inflammables or other dangerous substances, articles, compounds or mixtures shall be exercised by the official, board or agency having the power, immediately prior to the effective date of this section, to promulgate regulations or health code provisions governing such matters, unless and until a different official, board or agency is designated by local law or state statute to exercise such power.

(e) Any or all of the powers granted by this title to the town board of a town, except those set forth in paragraphs one, five, nine, fifteen and twenty of subdivision (a) of section sixteen hundred sixty may be delegated to any official, board or agency designated by it or by law.

§ 1604. Local ordinances prohibited. Except as otherwise provided in this chapter, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring from any owner of a

motor vehicle or motorcycle, or from any operator or chauffeur to whom this chapter is applicable, any tax, fee, license or permit for the use of the public highways, or excluding any such owner, operator or chauffeur from the free use of such public highways, excepting such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages, or in any other way restricting motor vehicles or motorcycles or their speed upon or use of the public highways; or setting aside for any given time a specified public highway or any part thereof constructed in whole or in part at the expense of the state for exhibitions, shows, exercises, entertainments or meetings; and no ordinance, rule or regulation contrary to or in any wise inconsistent with the provisions of this chapter, now in force or hereafter enacted shall have any effect.

Provided, however, that the power given to local authorities to license and regulate vehicles offered to the public for hire, and processions, assemblages or parades in the streets or public places, and all ordinances, rules and regulations which may have been or which may be enacted in pursuance of such powers shall remain in full force and effect.

ARTICLE 36
STATE DEPARTMENT OF TRANSPORTATION

Section 1610. General powers and duties.
1611. Effect of department orders.
1612. Enforcement.
1613. Review by courts.

§ 1610. General powers and duties. The department of transportation shall cooperate with the officials of cities and villages toward the adoption of uniform ordinances, signs, signals, signal lights and markings in the cities and villages of the state.

§ 1611. Effect of department orders. Orders issued by the department

of transportation pursuant to the provisions of this chapter shall be deemed to be rules and regulations for the purpose of taking judicial notice thereof.

§ 1612. Enforcement. The supreme court shall have jurisdiction to enforce the provisions of this article or any orders issued thereunder or to enjoin the enforcement thereof.

§ 1613. Review by courts. Any order made by the department of transportation pursuant to this chapter shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules or by any other appropriate remedy. Proceedings to review shall be brought in Albany county. Such proceedings shall be entitled to a preference.

ARTICLE 37

REGULATION OF TRAFFIC BY DEPARTMENT OF TRANSPORTATION AND OTHER STATE AUTHORITIES

Section 1620. Speed limits on state highways, and on Indian reservations.
1621. Other traffic regulations on state highways and on indian reservations.
1622. Speed limits on county roads and town highways.
1623. Regulation of traffic on the grounds of state departments, institutions of the state university, state hospitals and other state institutions.
1624. Limitation on scope of local speed limits; reports of local speeding convictions to department of transportation.
1625. Traffic regulations on restricted highways.
1626. Regulation of rest and parking areas and scenic overlooks.
1627. Designation of qualifying highways and access highways.
1628. Traffic regulations on bridge approaches to the barge canal system.

1629. Closed or restricted bridges; penalties for noncompliance.

§ 1620. Speed limits on state highways, and on Indian reservations. (a) The department of transportation with respect to state highways maintained by the state outside of cities having a population in excess of one million, and highways on Indian reservations, may by order, rule or regulation establish higher or lower maximum speed limits at which vehicles may proceed on or along such highways than the fifty-five miles per hour statutory maximum speed limit. No such maximum speed limit shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway. Absence of signs installed pursuant to this section shall be presumptive evidence that the department of transportation has not established a higher maximum speed limit than the fifty-five miles per hour statutory limit.

(b) The department of transportation, whenever it determines on the basis of an engineering and traffic investigation that slow speeds on any part of a controlled-access state highway maintained by the state outside of cities having a population in excess of one million consistently impede the normal and reasonable flow of traffic, may establish minimum speed limits below which vehicles may not proceed on or along such highway,

(c) The department of transportation may determine the maximum speed which may be maintained without structural damage to bridges and elevated structures that are a part of any state highway maintained by the state, and, if such maximum speed is lower than the maximum speed limit otherwise applicable, may by order, rule or regulation establish such lower maximum speed limit at which vehicles may proceed on any such bridge or structure.

§ 1621. Other traffic regulations on state highways and on indian reservations. (a) The department of transportation with respect to state highways maintained by the state, the intersection of any highway with a

state highway maintained by the state, and any highway intersecting or meeting a state highway maintained by the state for a distance not exceeding one hundred feet from such state highway maintained by the state, may by order, rule or regulation:

1. Designate through highways and order stop signs, flashing signals or yield signs erected at specified entrances thereto or designate any intersection as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection.

2. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any limited use vehicle, pedestrian, horseback rider or vehicle or device moved by human or animal power.

3. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.

4. Authorize angle parking on any roadway.

5. Regulate the crossing of any roadway by pedestrians.

6. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction.

7. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.

8. Designate any highway or any separate roadway thereof for one-way traffic.

9. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations from highways specified by the commissioner. Such exclusion shall not be construed to prevent the

delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded.

10. Prohibit, restrict or limit the stopping, standing or parking of vehicles.

11. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of or crossing such markings would be especially hazardous and order appropriate signs or markings on the roadway to indicate the beginning and end of such zone.

12. Require the use of lower gears on hills.

13. Regulate traffic by means of traffic-control signals.

14. Designate safety zones.

16. Designate a portion of a slope as a path for the use of bicycles.

17. Order signs or markings to identify the portion of the highway to be used for bicycle travel.

18. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway.

19. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

20. Designate preferential use lanes for specified types or classes of vehicles.

21. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route.

22. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from highways or set limits on hours of operation of such vehicles on particular state highways or segments of such highways. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded.

23. Authorize the use of shoulders or slopes of any state controlled-access highway by motor vehicles.

(b) The department of transportation shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structures will safely carry. At bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of this chapter, the department of transportation shall cause signs to be erected to inform persons of the safe capacity.

(c) Such department of transportation shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and elevated structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required.

(d) The department of transportation may by order, rule or regulation temporarily exclude from any portion of any state highway and any highway and bridge constructed or to be constructed by the state on any indian reservation any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in its opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which vehicles

are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs is directed by the department of transportation.

§ 1622. Speed limits on county roads and town highways. The department of transportation upon the request of the county superintendent of highways of a county and the town board of the town or towns affected with respect to county roads and town highways in such town or towns outside of cities or villages, may by order, rule or regulation:

1. Establish maximum speed limits at which vehicles may proceed on or along such highways higher or lower than the fifty-five miles per hour statutory maximum speed limit. No such limit shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway.

2. Establish maximum speed limits at which vehicles may proceed on or along all such highways lying within an area or areas as designated by a description of the boundaries of such area or areas submitted by the county superintendent of highways of a county and the town board of the town or towns affected lower than fifty-five miles per hour statutory maximum speed limit. No such limit shall be established at less than thirty miles per hour.

§ 1623. Regulation of traffic on the grounds of state departments, institutions of the state university, state hospitals and other state institutions. (a) Upon the application of the head of any state department, upon the application of the board of trustees of the state university of New York and upon the application of the board of visitors or other similar board or body of a state hospital or state institution, the department of transportation may by order, rule or regulation

prohibit, restrict or regulate traffic on or pedestrian use of any highway on the grounds of the department, institution or institutions over which the department head, board or body making such applications has jurisdiction. (b) This section shall not apply to any of the grounds referred to in section fifty-seven hundred eight of the education law.

§ 1624. Limitation on scope of local speed limits; reports of local speeding convictions to department of transportation. (a) On any state highway maintained by the state within any city, village or suburban town governed pursuant to article three-A of the town law, the department of transportation may designate any such state highway or section of such highway on which any such city, village or suburban town shall not by local law, ordinance, order, rule or regulation establish any maximum speed limits at which vehicles may proceed on or along such state highway. Such designation shall be made by an order in writing of the department of transportation and served by mail on the mayor or supervisor or a member of the governing board of such city, village or suburban town ten days before the same shall take effect. At the expiration of ten days after service of such order upon any city, village or suburban town the speed of any vehicle upon such state highway or section of such highway shall not be subject to any such maximum speed limit established by such city, village or suburban town.

(b) The department of transportation may in its discretion at any time make a written order requiring any city, village or suburban town to report to the department of transportation the punishment inflicted upon conviction of exceeding the lawful maximum speed limit in such city, village or suburban town. Such order shall be in writing and shall be served in like manner as the order provided for in subdivision (a) of this section. Any city, village or suburban town upon which such order is served shall thereafter, at the close of each month and before the fifth day of the following month, make a report to the department of transportation showing the name and residence of each person fined or otherwise punished during the month, and the fines or punishment imposed. Such report shall be duly verified by the officer or officers, or magistrate or magistrates imposing the fines or punishment. The department of transportation may at any time suspend or rescind the

order requiring such reports. If any city, village or suburban town fail to make any such report as required by the order of the department of transportation within the time prescribed by law, the right or power of such city, village or suburban town to impose any punishment upon conviction of exceeding the lawful maximum speed limit within such city, village or suburban town shall be suspended until the report is made as required.

§ 1625. Traffic regulations on restricted highways. (a) The department of transportation, a county superintendent of highways, or a town superintendent of highways, with respect to any restricted highway, as defined in section one hundred four-a of the highway law, may prohibit, restrict or regulate traffic on, or pedestrian use of any such highway. The provisions of section sixteen hundred shall be applicable provided, however, that any action taken pursuant to this section shall supersede the provisions of this chapter where inconsistent with or in conflict with respect to the following enumerated subjects.

1. Establishment of maximum and minimum speed limits at which vehicles may proceed along any such restricted highway.

2. Weights and dimensions of vehicles.

3. Use of such restricted highway by pedestrians, equestrians and animals.

4. Parking, standing, stopping and backing of vehicles.

5. Control of persons and equipment engaged in work on such highway.

(b) the provisions of this chapter with respect to registration shall not apply to vehicles and equipment engaged in work on such restricted highways.

(c) When used on such restricted highways, all traffic control devices shall be considered as official traffic control devices and shall conform to the manual and specifications for a uniform system of traffic control devices adopted by the department of transportation.

§ 1626. Regulation of rest and parking areas and scenic overlooks. The department of transportation with respect to rest and parking areas and scenic overlooks provided by the department of transportation along state highways maintained by the state, may prohibit, restrict or regulate traffic within such areas and overlooks or the use of such areas and overlooks. Any action taken pursuant to this section shall supersede the provisions of this chapter where inconsistent or in conflict therewith in respect to the establishment of maximum and minimum speed limits and to the parking, standing, stopping and backing of vehicles.

§ 1627. Designation of qualifying highways and access highways. (a) The commissioner of transportation shall, for the purposes of this chapter, by rule or regulation, designate qualifying highways which shall be highways on the national system of interstate and defense highways or federal-aid primary highways.

(b) The department of transportation, for the purposes of this chapter, shall develop criteria to determine a highway providing access between qualifying highways and terminals, facilities for food, fuel, repairs, and rest and, in addition, for points of loading and unloading for household goods carriers. The department may, by order, rule or regulation, designate public highways within the state as access highways. The department of transportation, upon the request of the legislative body of any city or village, or of a county superintendent of highways, or of a town board may, by order, rule or regulation, designate other city or village streets, or county roads, or town highways, respectively, as access highways. Before designating any county, town, city or village, street or highway as an access highway, the commissioner of transportation shall notify the municipality having jurisdiction over such street or highway of the need for such local access road and solicit comments thereon. If objections to the designation are filed by the municipality having jurisdiction over a particular street or highway, the commissioner of transportation shall set, as soon as practicable, a public informational meeting. If the

commissioner of transportation finds, after holding a public informational meeting, that his proposed designation is proper and reasonable, prior to filing a notice of agency action he shall so notify the municipality in writing setting forth his findings and justifications for such designation. The municipality shall have the right of judicial review pursuant to article seventy-eight of the civil practice law and rules.

(c) In order to implement the provisions of this section, the commissioner of transportation may issue a permit pursuant to subdivision fifteen of section three hundred eighty-five of this chapter or may sign such public highways.

§ 1628. Traffic regulations on bridge approaches to the barge canal system. The department of transportation with respect to any bridge structure that crosses a waterway which is part of the barge canal system may by order, rule or regulation, regulate traffic on the approaches thereto by means of traffic control devices, physical barriers and traffic control signals for a distance not exceeding one hundred fifty feet from such bridge structure.

§ 1629. Closed or restricted bridges; penalties for noncompliance. 1. As used in this section, the term "bridge" means bridge as defined in article nine of the highway law.

2. Any person who knowingly defaces, removes, obliterates or otherwise alters any duly posted notice of closing of a bridge, or of restricted access to a bridge, with intent to deny proper notice of such closing or restricted access, is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than two hundred fifty dollars nor more than five hundred dollars, by imprisonment for not more than ninety days, or by both such fine and imprisonment.

3. Any person who knowingly operates a vehicle upon a bridge to which access is forbidden pursuant to the provisions of article nine of the highway law is guilty of a misdemeanor, and upon conviction thereof,

shall be punished by a fine of not more than two hundred fifty dollars, by imprisonment for not more than thirty days, or by both such fine and imprisonment.

ARTICLE 38

REGULATION OF TRAFFIC BY PUBLIC AUTHORITIES AND COMMISSIONS

Section 1630. Regulation of traffic on highways under the jurisdiction of certain public authorities and commissions.
1631. Additional traffic regulation on the New York state thruway.
1632. Application of article.

§ 1630. Regulation of traffic on highways under the jurisdiction of certain public authorities and commissions. The New York state thruway authority, a county park commission, the Niagara Falls bridge commission, a parkway authority, a bridge authority, including the Buffalo and Fort Erie public bridge authority, the metropolitan transportation authority, the Long Island Rail Road, the Metro-North Commuter Railroad, the office of parks, recreation and historic preservation, the department of environmental conservation, the department of agriculture and markets, the industrial exhibit authority or a bridge and tunnel authority may by ordinance, order, rule or regulation prohibit, restrict or regulate traffic on or pedestrian use of any highway, property or facility under its jurisdiction. The provisions of section sixteen hundred of this title shall be applicable to such ordinances, orders, rules and regulations, provided, however, that such ordinances, orders, rules and regulations shall supersede the provisions of this chapter where inconsistent or in conflict with respect to the following enumerated subjects:

1. Weights and dimensions of vehicles, except that no combination of commercial vehicles, (as defined in paragraph (b) of subdivision eleven of section three hundred seventy-six of the vehicle and traffic law) coupled together shall consist of more than three vehicles.

2. Parking, standing, stopping and backing of vehicles.

3. The prohibition or regulation of the use of any highway by particular vehicles or classes or types thereof or devices moved by human power, except hearses operated by or for a licensed funeral director or undertaker during a burial or funeral procession while travelling either to or from a funeral, interment or cremation and except specialized vehicles as defined by section four hundred one of this chapter.

4. Charging of tolls, taxes, fees, licenses or permits for the use of the highway or any of its parts or entry into or remaining within the central business district established by article forty-four-C of this chapter, where the imposition thereof is authorized by law.

5. Establishment of maximum and minimum speed limits at which vehicles may proceed on or along such highways. No such maximum speed limit shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway, and except that, with respect to bridge and elevated structures that are a part of any such highway, a lower maximum speed limit may be established if it is determined that such lower maximum speed limit is the maximum speed limit which may be maintained without structural damage to such bridge or structure, and except that, with respect to any highway under the jurisdiction of the office of parks, recreation and historic preservation, other than a parkway as defined in subdivision seventeen of section 1.03 of the parks, recreation and historic preservation law, the department of agriculture and markets or the industrial exhibit authority, a maximum speed limit of not less than ten miles per hour may be established on any portion thereof, if it is determined that such lower maximum speed limit is necessary to assure the safety of the public, and except that, with respect to any highway having toll plazas, a maximum speed limit of not less than five miles per hour may be established for passage through such toll plazas.

6. Operation of authorized emergency vehicles.

7. Control of persons and equipment engaged in work on the highway.

8. Hitchhiking and commercial activities.

9. Use of medial strips and dividing malls or sections and use of shoulders of the highway.

10. Use of the highway by pedestrians, equestrians and animals.

11. Turning of vehicles.

12. Regulation of the direction of the movement of traffic and the use of traffic lanes.

13. Regulation of the use of horns, lights and other required equipment of vehicles.

14. Towing and pushing of vehicles, including, but not limited to, the licensing and regulation of persons engaged in the business of towing, and the fixing of maximum charges to be made by such persons for the towing and storage of disabled vehicles.

15. Objects projecting or hanging outside or on the top of vehicles.

16. Entering and driving off the highway, its roadways, medial strips, dividing malls and shoulders.

17. The prohibition or regulation of speed contests, races, exhibitions of speed, processions or parades.

18. Littering the highway.

19. Vehicles illegally parked, stopped or standing, or vehicles involved in accidents, including, but not limited to, the removal and

storage of such vehicles, the fixing of reasonable charges, to be paid by the owner, operator or person entitled to possession, for such removal and storage and for other expenses incurred in connection therewith, the creation of liens on such vehicles for such charges and expenses, the enforcement of such liens, the determination of ownership or right to possession of such vehicles, the time before such vehicles are deemed abandoned vehicles pursuant to section twelve hundred twenty-four of this chapter, and the disposition of the proceeds of sales held pursuant to said section.

19-a. Requirements imposing a duty upon any person removing a vehicle illegally parked, stopped or standing, without the permission of the owner or operator, to accept payment in person by credit card in accordance with generally accepted business practices.

20. Transportation of combustibles, chemicals, explosives, inflammables, or other dangerous substances, articles, compounds or mixtures, including, but not limited to, dangerous articles, as defined in section three hundred eighty of this chapter.

21. Traffic signal legend applicable to pedestrians and use of arrows.

22. Designate preferential use lanes for specified types or classes of vehicles.

23. Parking, standing and stopping of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

§ 1631. Additional traffic regulation on the New York state thruway. In addition to the other powers granted by this article, the New York state thruway authority may by order, rule or regulation prohibit or regulate overtaking and passing on the New York state thruway. Any such order, rule or regulation shall supersede the provisions of section eleven hundred twenty-three.

§ 1632. Application of article. This article shall not apply with respect to any portion of the New York state thruway located within a city having a population in excess of one million.

ARTICLE 39

REGULATION OF TRAFFIC BY CITIES AND VILLAGES

Section 1640. Traffic regulations in all cities and villages.

1640-a. Traffic regulations at parking areas and driveways of hospitals, shopping centers, office buildings and office building complexes, places of public assembly, facilities owned or leased by not-for-profit corporations, private apartment complexes and fire stations; private condominium complex; mobile home parks; manufactured home parks.

1640-b. Residential parking system in the Corn Hill section of the city of Rochester.

1640-c. Residential parking system in the city of Rye.

1640-d. Residential parking system in the village of Pelham in the county of Westchester.

1640-e. Residential parking system in the Tibbetts Brook Park and Yonkers Raceway/Empire City areas of the city of Yonkers.

1640-e*2. Residential parking system in the city of Ithaca in the county of Tompkins.

1640-f. Residential parking permit system in the city of Beacon.

1640-f*2. Residential parking system in the city of Auburn in the county of Cayuga.

1640-f*3. Residential parking system in the village of Tarrytown.

1640-g. Residential parking system in the village of Tuckahoe in the county of Westchester.

1640-h. Residential parking permit system in the city of Peekskill.

1640-h*2. Residential parking system in the village of Cold Spring in the county of Putnam.

1640-i. Residential parking system in the village of Mt. Kisco.

1640-j. Residential parking system in the Garrett Park area of the city of Yonkers.

1640-j*2. Residential parking system in the village of Irvington.

1640-k. Residential parking permit system in the city of Rensselaer.

1640-l. Residential parking system in the city of Binghamton.

1640-m. Residential parking permit system in the city of Albany.

1640-o. Residential parking system in the village of Dobbs Ferry in the county of Westchester.

1640-o*2. Residential parking system in the village of Mamaroneck in the county of Westchester.

1640-p. Pilot residential parking permit system in the city of Buffalo.

1640-q. Residential parking system in the village of Croton-on-Hudson.

1640-r. Residential parking system in the village of Floral Park in the county of Nassau.

1640-r*2. Residential parking system in the city of New Rochelle.

1640-r*3. Residential parking system in the city of Rye.

1640-s. Residential parking system in the village of Port Chester.

1641. Additional traffic regulations on all highways except state highways maintained by the state in cities and villages.

1642. Additional traffic regulations in cities having a population in excess of one million.

1642-a. Bus permit system in cities having a population of one million or more.

1642-b. Installation and operation of intelligent speed assistance devices; demonstration program in the

city of New York.
1643. Speed limits on highways in cities and villages.
1644. Special speed limits on bridges and other elevated structures in cities and villages.
1645. Exempting fuel oil trucks from use of truck routes in cities having a population in excess of one million.
1646. Application of article.

§ 1640. Traffic regulations in all cities and villages. (a) The legislative body of any city or village, with respect to highways (which term for the purposes of this section shall include private roads open to public motor vehicle traffic) in such city or village; subject to the limitations imposed by section sixteen hundred eighty-four may by local law, ordinance, order, rule or regulation:

1. Designate through highways and order stop signs, flashing signals or yield signs erected at specified entrances thereto or designate any intersection as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection.

2. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.

3. Regulate the crossing of any roadway by pedestrians.

4. Designate any highway or any separate roadway thereof for one-way traffic.

5. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations from highways specified by such legislative body. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded.

6. Prohibit, restrict or limit the stopping, standing or parking of

vehicles; provided, however, that a vehicle may not be found to be in violation of a parking regulation if it is parked at a broken parking meter at a time when metered parking is authorized.

7. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of or crossing such markings would be especially hazardous in accordance with the standards, minimum warrants and sign or marking specifications established by the department of transportation.

8. Designate safety zones.

9. Provide for the installation, operation, maintenance, policing, and supervision of parking meters, establish parking time limits at such meters, designate hours of operation of such meters, and, except as provided in section twelve hundred three-h of this chapter, fix and require the payment of fees applicable to parking where such meters are in operation. Such fees shall be paid to such city or village and credited to its general fund, unless a different disposition prescribed by local law or ordinance enacted prior to or after the effective date of this section.

10. Establish a system of truck routes upon which all trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of ten thousand pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route system. Such exclusion shall not be construed to prevent the delivery or pick up of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connection with all state routes entering or leaving such city or village.

11. Regulate traffic by means of traffic-control signals.

12. License, regulate or prohibit speed contests, races, exhibitions of speed, processions, assemblages or parades. Whenever such a speed

contest, race, exhibition of speed, procession, assemblage or parade authorized by a local authority will block the movement of traffic on a state highway maintained by the state, or on a highway which connects two state highways maintained by the state to make a through route, for a period in excess of ten minutes, such authority must, prior to such blocking, provide and designate with conspicuous signs a detour adequate to prevent unreasonable delay in the movement of traffic on said highway maintained by the state.

13. Prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks.

14. Provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fires or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.

15. Provide for the establishment, operation, policing and supervision of a prepaid parking permit system, establishing parking time limits for such permits and fix and require the payment of fees applicable to parking where such a prepaid permit parking system is in operation. Such fees shall be paid to the city of Albany and credited to its general funds, unless a different disposition prescribed by local law is enacted. A prepaid parking permit system may not be established at any location at which parking is subject to a parking meter fee. The provisions of this paragraph shall only be applicable for the city of Albany.

16. Adopt such additional reasonable local laws, ordinances, orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of this state.

17. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a

of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

18. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route.

19. Prohibit vehicles engaged in the retail sale of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians from stopping for the purpose of such sales on any highway within such city or village, or on all such highways. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off of such highway, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer.

20. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from highways or set limits on hours of operation of such vehicles on particular city or village highways or segments of such highways. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded.

21. Serve notice of a violation of any provision of local law or ordinance relating to the prevention of noise pollution caused by an audible motor vehicle burglar alarm and over which the city or village has jurisdiction upon the owner of a motor vehicle by affixing such notice to said vehicle in a conspicuous place.

22. Prohibit or regulate the stopping, standing and parking of vehicles in designated areas reserved for public business at or adjacent to a government facility.

(b) Such a legislative body also may by local law, ordinance, order,

rule or regulation prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned or leased by such city or village.

(c) Each such legislative body shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. At bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five, the legislative body of such city or village shall cause signs to be erected to inform persons of the safe capacity.

(d) Each such legislative body of a city or a village shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required.

(e) No legislative body of a city or a village shall enact any law that prohibits the use of sidewalks by persons with disabilities who use either a wheelchair or an electrically-driven mobility assistance device being operated or driven by such person.

§ 1640-a. Traffic regulations at parking areas and driveways of hospitals, shopping centers, office buildings and office building complexes, places of public assembly, facilities owned or leased by not-for-profit corporations, private apartment complexes and fire stations; private condominium complex; mobile home parks; manufactured home parks. The legislative body of any city or village, with respect to the parking areas and driveways of a hospital or parking area of a shopping center, office building and office building complex or place of public assembly, or the parking areas and driveways of facilities owned or leased by a not-for-profit corporation or the parking areas, driveways, and private streets or roadways of a private apartment house complex, private condominium complex, or cooperative apartment complex, or the parking areas, private streets, roadways or driveways of mobile

home parks or manufactured home parks, or the parking areas and driveways of a fire station, and pursuant to the written request of the owner, the person in general charge of the operation and control of such area, the fire chief of the city or village fire department or the police chief or the police commissioner of the police department serving such area, may, by local law or ordinance:

1. Order stop signs, flashing signals or yield signs erected at specified entrance or exit locations to any such area or designate any intersection in such area as a stop intersection or as a yield intersection and order like signs or signals at one or more entrances to such intersection.

2. Regulate traffic in any such area, including regulation by means of traffic-control signals.

2-a. Notwithstanding the provisions of section sixteen hundred forty-three to the contrary, establish maximum speed limits in any such area at not less than fifteen miles per hour.

3. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations in any such area.

4. Regulate the crossing of any roadway in any such area by pedestrians.

5. Designate any separate roadway in any such area for one-way traffic.

6. Prohibit, regulate, restrict or limit the stopping, standing or parking of vehicles in specified areas of any such area.

7. Designate safety zones in any such area.

8. Provide for the removal and storage of vehicles parked or abandoned in any such area during snowstorms, floods, fires or other public

emergencies, or found unattended in any such area, (1) where they constitute an obstruction to traffic or (2) where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.

9. Adopt such additional reasonable rules and regulations with respect to traffic and parking in any such area as local conditions may require for the safety and convenience of the public or of the users of any such area.

10. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

In the case of a college or university, as defined in section two of the education law, the provisions of this section shall apply only upon the written request of the governing body of such college or university.

§ 1640-b. Residential parking system in the Corn Hill section of the city of Rochester. 1. Notwithstanding the provisions of any law to the contrary, the city council of the city of Rochester may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the Corn Hill neighborhood of the city of Rochester which shall mean that area generally bounded by Ford Street, Exchange Boulevard and the Inner Loop.

3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces with in the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

§ 1640-c. Residential parking system in the city of Rye. 1. Notwithstanding the provisions of any law to the contrary, the city council of the city of Rye may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the city of Rye which shall mean that area generally bounded on the westerly side, by Blind Brook and Milton Harbor; on the southerly side, by Milton Point; on the easterly side, by Long Island Sound; and on the northerly side, by the northerly side of Apawamis Avenue as extended by imaginary lines easterly from its point of intersection with Forest Avenue to Long Island Sound, and westerly from

its point of intersection with Milton Road to Blind Brook.

3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces with in the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

§ 1640-d. Residential parking system in the village of Pelham in the county of Westchester. 1. Notwithstanding the provisions of any law to the contrary, the village board of the village of Pelham may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the village consisting of the following roadways:

(a) the east side of Wolfs Lane, from Franklin Place to Boulevard;

(b) the south side of Boulevard West, from Wolfs Lane to the city of Mount Vernon boundary;

(c) both sides of Fifth Avenue, from Sixth Street to Willow Avenue;

(d) both sides of NYAC Avenue, from Franklin Avenue to Second Street;

(e) both sides of Corlies Avenue, from Colonial Avenue to Second Street;

(f) both sides of Pelhamdale Avenue, from Colonial Avenue to Irving Place;

(g) both sides of Highbrook Avenue, from Colonial Avenue to Irving Place;

(h) both sides of Boulevard, from Wolfs Lane to Highbrook Avenue;

(i) both sides of Seventh Street, from the west end of Seventh Street (dead end) to Sixth Avenue;

(j) both sides of Fourth Avenue, from Seventh Street to the dead end;

(k) both sides of Harmon Avenue, from Fifth Avenue to Harmon Place;

(l) the north side of First Street, from Wolfs Lane to Corlies Avenue;

(m) the west side of NYAC Avenue, two hundred feet south of the intersection with First Street to East Second Street;

(n) the east side of Fourth Avenue, from First Street to Second Street;

(o) the west side of First Avenue, from First Street to Third Street.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of the spaces within the permit

area available to nonresidents, and shall provide short term parking of not less than one hundred twenty minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village unless otherwise specified in such local law.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

*** § 1640-e. Residential parking system in the Tibbetts Brook Park and Yonkers Raceway/Empire City areas of the city of Yonkers.** 1. Notwithstanding the provisions of any law to the contrary, the city council of the city of Yonkers may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within:

(a) the Tibbetts Brook Park area of the city of Yonkers which shall mean that area generally bounded by Harrison Avenue proceeding south from Tibbetts Brook Park to Alan B. Shepard Place; Tibbetts Road proceeding southerly from Tibbetts Brook Park to Alan B. Shepard Place; Sedgewick Avenue proceeding southerly from Tibbetts Brook Park to Alan B. Shepard Place; Jervis Road between Harrison Avenue and Sedgewick Avenue and from the northern intersection of Sedgewick Avenue proceeding southerly along Jervis Road to the Alan B. Shepard Place line; and

(b) the Yonkers Raceway/Empire City area of the city of Yonkers consisting of the following roadways:

(i) Belmont Avenue from Orient Street to Yonkers Avenue;

(ii) Boone Street from Central Park Avenue to Dead End;

(iii) Clark Street from Central Park Avenue to Orient Street;

(iv) Loring Avenue from Central Park Avenue to Orient Street; and

(v) Chamberlain Avenue from Belmont Avenue to Central Park Avenue.

3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 2 § 1640-e's

*** § 1640-e. Residential parking system in the city of Ithaca in the county of Tompkins.** 1. Notwithstanding the provisions of any law to the contrary, the common council of the city of Ithaca may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established for public highways within the city, and exclusive of any highways located

within Cornell University, as follows:

(a) in the area bounded by the following roadways and corporate boundaries:

(i) East State Street from Cornell Street to Giles Street;

(ii) Giles Street to Water Street;

(iii) Water Street to East State Street;

(iv) East State Street from Water Street to Seneca Way;

(v) Seneca Way from East State Street to East Seneca Street;

(vi) East Seneca Street from Seneca Way to Parker Street;

(vii) Parker Street to Terrace Place;

(viii) Terrace Place to Linn Street;

(ix) Linn Street from East Court Street to University Avenue;

(x) University Avenue from Linn Street to Willard Way;

(xi) Willard Way from University Avenue to Stewart Avenue;

(xii) Stewart Avenue from Willard Way to the corporate boundary between the city of Ithaca and the village of Cayuga Heights;

(xiii) following the corporate boundary between the city of Ithaca and the village of Cayuga Heights east to the corporate boundary between the city of Ithaca and the town of Ithaca;

(xiv) following the corporate boundary between the city of Ithaca and the town of Ithaca south to East State Street; and

(xv) East State Street from the corporate boundary to Giles Street; and

(b) consisting of the following roadways:

(i) Treva Avenue west of Water Street;

(ii) Valentine Place south of East State Street;

(iii) Quarry Street south of East State Street;

(iv) Ferris Place south of East State Street;

(v) Linn Street north of Terrace Place to Farm Street;

(vi) Lake Street north of University Avenue to the north property line of tax map parcel 28-4-7; and

(vii) Willard Way and Willard Way Loop north of University Avenue.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than one hundred twenty minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city unless otherwise specified in such local law.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 2 § 1640-e's

*** § 1640-f. Residential parking permit system in the city of Beacon.**

1. Notwithstanding the provisions of any law to the contrary, the city council of the city of Beacon may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the city of Beacon consisting of the following roadways: River Street, Ferry Street, Red Flynn Drive, West Main Street and Bank Street.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for

commercial/retail use.

4. The local law or ordinance providing for such residential parking permit system shall:

(a) set forth factors necessitating the enactment of such parking permit system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than ninety minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city unless otherwise specified in such local law.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 3 § 1640-f's

*** § 1640-f. Residential parking system in the city of Auburn in the county of Cayuga.** 1. Notwithstanding the provisions of any law to the contrary, the city council of the city of Auburn may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the city consisting of the following roadways:

Liberty Street, Cady Street, Lansing Street, Nelson Street, Park Avenue and Curtis Place, as well as Clark Street from State Street to

Green Street, Court Street from Westlake Avenue to Genesee Street, Dill Street from Genesee Street to North Street, East Genesee Street from Market Street to Fulton Street, Franklin Street from Lewis Street to Mann Street, Genesee Street from Market Street to Court Street, Green Street, Lewis Street from Franklin Street to an unnamed alley, Lewis Street from Grant Avenue to Seymour Street, Market Street, South Street from Genesee Street to Loop Road, Water Street, Genesee Street from Baker Avenue to Dunning Avenue/Columbus Street, and William Street from Westlake Avenue to Genesee Street.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than ninety minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city unless otherwise specified in such ordinance.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 3 § 1640-f's

*** § 1640-f. Residential parking system in the village of Tarrytown.** 1.

Notwithstanding the provisions of any law to the contrary, the village board of trustees of the village of Tarrytown may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the Miller Park neighborhood of the village of Tarrytown which shall mean that area generally bounded on the easterly side by South Broadway; on the northerly side by Franklin Street; on the westerly side by Franklin Courts and the Metro-North Commuter Railroad tracks; and on the southerly side by Church Street. The residential parking permit system shall also apply on Hamilton Place, White Street, Cottage Place, Wildey Street to Washington Street, Mechanics Avenue, Linden Place, Wood Court, Hanford Place, Central Avenue to Washington Street, Windle Park, Storm Street and on the southerly side of Main Street between White Street and Windle Park.

3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of

the village.

5. No ordinance shall be adopted pursuant to this action until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 3 § 1640-f's

§ 1640-g. Residential parking system in the village of Tuckahoe in the county of Westchester. 1. Notwithstanding the provisions of any law to the contrary, the village board of the village of Tuckahoe may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within that area bounded by the following:

(a) the southerly corporate boundary between the village of Tuckahoe and the village of Bronxville to Midland Avenue;

(b) Midland Avenue to its intersection with Winter Hill Road;

(c) Winter Hill Road from its intersection with Midland Avenue to its intersection with Main Street;

(d) Marbledale Road from its intersection with Main Street to a point where it intersects with the northerly corporate boundary between the village of Tuckahoe and the town of Eastchester;

(e) the northerly corporate boundary between the village of Tuckahoe and the town of Eastchester to the westerly corporate boundary between the village of Tuckahoe and the city of Yonkers; and

(f) the westerly corporate boundary between the village of Tuckahoe and the city of Yonkers to the southerly corporate boundary between the village of Tuckahoe and the village of Bronxville.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short-term parking of not less than one hundred twenty minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village unless otherwise specified in such local law.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

*** § 1640-h. Residential parking system in the city of Peekskill.** 1. Notwithstanding the provisions of any law to the contrary, the common council of the city of Peekskill may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the city generally bounded on the north and west sides by South Street, on the south side by Bay Street and on the east side by Smith Street and any and all streets and roads within that area including but not limited to those portions of Grove Street, Hudson Avenue, LaFayette Place, Simpson Place and Requa Street within that area, plus the portions of Bay Street and Requa Street located on the east side of Smith Street within one hundred feet of the east side of

Smith Street.

3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 2 § 1640's

*** § 1640-h. Residential parking system in the village of Cold Spring in the county of Putnam.** 1. Notwithstanding the provisions of any law to the contrary, the village board of the village of Cold Spring may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established

within the area of the village consisting of the following roadways on the west side of the metro north train station: Main Street, New Street, West Street, Fish Street and Market Street and on the following roadways on the east side of the metro north train station: Main Street from Metro North Tracks to Parsonage Street, Academy Street, B Street, Benedict Road, Cherry Street, East Belvedere Street, Fishkill Avenue, Furnace Street, Garden Street, Grandview Terrace, Hamilton Street, High Street, Kemble Avenue from Main Street to Wall Street, Locust Ridge, Maple Terrace, Marion Avenue, Mountain Avenue, Orchard Street, Parrot Street, Parsonage Street, Paulding Avenue, Pine Street, Railroad Avenue, Stone Street, West Belvedere Street, Whitehill Place, Church Street, Haldane Street, Rock Street, Cross Street and Northern Avenue.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than one hundred twenty minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village unless otherwise specified in such local law.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 2 § 1640-h's

§ 1640-i. Residential parking system in the village of Mt. Kisco. 1. Notwithstanding the provisions of any law to the contrary, the village board of trustees of the village of Mt. Kisco may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the village generally bounded by Gatto Drive and Highland Avenue on the South, Grove Street on the East, Carpenter Avenue and North Moger Avenue on the North, and Marion Avenue and Sands Street on the West and any and all streets and roads within that area including but not limited to those portions of Stewart Place, Britton Lane, Lieto Drive, Sarles Avenue, Dakin Avenue, Lundy Place, Oakridge Road, Hillview Circle, Green Street, South Moger Avenue, Brookside Avenue, Quaker Hill Place, Maple Avenue, Manchester Drive, and Hillside Avenue.

3. Notwithstanding the foregoing, no permit shall be required on streets or portion of streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village.

5. No ordinance shall be adopted pursuant to this action until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

*** § 1640-j. Residential parking system in the Garrett Park area of the city of Yonkers.** 1. Notwithstanding the provisions of any law to the contrary, the city council of the city of Yonkers may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the Garrett Park area of the city of Yonkers which shall mean that area encompassing Palmer Road, from Parkview Avenue to Bronxville Road; Garrett Place; Parkview Avenue from Palmer Road to 103 Parkview Avenue, north of Pondfield Road West; Pondfield Road West from Bronxville Road to the Bronxville border and Gard Avenue from Pondfield Road West to 19 Gard Avenue, north of Pondfield Road West.

3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 2 § 1640-j's

*** § 1640-j. Residential parking system in the village of Irvington.** 1. Notwithstanding the provisions of any law to the contrary, the village board of trustees of the village of Irvington may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the Main Street neighborhood of the village of Irvington, which shall mean that area generally bounded on the easterly side by North and South Dearman Street; on the northerly side by Matthiessen Park; on the westerly side by North and South Astor Street and the Metro-North Commuter Railroad tracks; and on the southerly side by Station Road.

3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four

hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 2 § 1640-j's

§ 1640-k. Residential parking permit system in the city of Rensselaer. 1. Notwithstanding the provisions of any law to the contrary, the city council of the city of Rensselaer may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the city of Rensselaer consisting of the following streets: Elm Street, East Street and Wendell Street.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking permit system shall:

(a) set forth factors necessitating the enactment of such parking permit system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than ninety minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city of Rensselaer.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

§ 1640-l. Residential parking system in the city of Binghamton. 1. Notwithstanding the provisions of any law to the contrary, the city council of the city of Binghamton may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the city consisting of the following roadways:

(a) Pine Street, from Carroll Street to Liberty Street;

(b) Henry Street, from Carroll Street to Liberty Street;

(c) Fayette Street, from Court Street to Henry Street;

(d) Carroll Street, from Court Street to Henry Street; and

(e) Liberty Street, from Court Street to Henry Street.

3. Notwithstanding any other provision of this section, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

§ 1640-m. Residential parking permit system in the city of Albany. 1. Notwithstanding the provisions of any law to the contrary, the city of Albany may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within certain areas of the city or as delineated by the common council of the city of Albany in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the areas of the city of Albany described as follows: an area within a one mile radius of the Nelson A. Rockefeller Empire State Plaza. The permitted streets within this area shall be described in a local law or ordinance adopted by the common council of the city of Albany pursuant to this section.

3. Notwithstanding the provisions of this section, no permit shall be

required on streets where the adjacent properties are zoned for commercial, office and/or retail use.

4. The local law or ordinance providing for such residential parking permit system shall:

a. Set forth the specific factors which necessitate the implementation of said system and shall include, but not be limited to, findings of facts as to the existence of such traffic hazards, congestion and air and noise pollution within any such areas;

b. Provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

c. Provide the times of the day and the days of the week during which permit requirements shall be in effect;

d. Make not less than twenty percent of all spaces within the permit area or areas available to nonresidents which shall provide short-term parking of not less than ninety minutes in duration in such area or areas;

e. Make not more than three thousand five hundred of the approximately nine thousand residential spaces within the permit area or areas available for residential parking by permit;

f. Provide the schedule of fees to be paid for residential permits; and

g. Provide that such fees shall be credited to the general fund of the city of Albany.

5. No local law or ordinance shall be adopted pursuant to this section until a public hearing thereon has been held by the common council of the city of Albany concerning the designation of the certain area or areas in which said parking permit system is to be implemented.

*** § 1640-o. Residential parking system in the village of Dobbs Ferry in the county of Westchester.** 1. Notwithstanding the provisions of any law to the contrary, the village board of the village of Dobbs Ferry may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established in the village of Dobbs Ferry within the area of the village consisting of the following roadways:

(a) Oak street, from Broadway to Main street;

(b) Elm street, from Broadway to Main street;

(c) Chestnut street, from Broadway to Main street;

(d) Walnut street, from Broadway to Livingston avenue;

(e) Hatch terrace, from Broadway to Walnut street;

(f) Palisade street, from Cedar street to Chestnut street;

(g) Riverside place;

(h) Cedar street, from Main street to a point 750 feet west of Palisade street;

(i) The portion of Draper lane owned by the village of Dobbs Ferry.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial, office and/or retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village of Dobbs Ferry unless otherwise specified in such local law.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

6. The provisions of this section shall not apply to any state highway maintained by the state.

* NB There are 2 § 1640-o's

*** § 1640-o. Residential parking system in the village of Mamaroneck in the county of Westchester.** 1. Notwithstanding the provisions of any law to the contrary, the board of trustees of the village of Mamaroneck may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the village consisting of the following roadways:

(a) Union Avenue, from Halstead Avenue to Tompkins Avenue;

(b) Melbourne Avenue, from Halstead Avenue to Tompkins Avenue;

(c) Hinman Place, from Melbourne Avenue to Union Avenue;

(d) Anita Lane, from Union Avenue to the dead end;

(e) Valley Place, from Ward Avenue to the dead end;

(f) Ward Avenue, from Union Avenue to Spencer Place;

(g) Stanley Avenue, from Mt. Pleasant Avenue to Fenimore Road;

(h) Waverly Avenue, from Plaza Avenue to Mamaroneck Avenue;

(i) Center Avenue, from Plaza Avenue to Old White Plains Road;

(j) Madison Street, from Plaza Avenue to Old White Plains Road;

(k) Washington Street, from Plaza Avenue to Old White Plains Road;

(l) Grand Street, from Plaza Avenue to Old White Plains Road, and from Old White Plains Road to Mamaroneck Avenue;

(m) Alling Street and Pelham Street, from Grand Street to Old White Plains Road;

(n) New Street, from Old White Plains Road to Mamaroneck Avenue;

(o) Willow Street, from Jefferson Avenue to the dead end;

(p) Jefferson Avenue, from Jefferson Street to Cedar Street;

(q) Grade Street, from Jefferson Avenue to the dead end;

(r) the north-west side of Bishop Avenue, from the north-west corner of the property line of 420 Mount Pleasant Avenue to Fenimore Road.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village of Mamaroneck unless otherwise specified in such local law.

5. No local law or ordinance shall be adopted pursuant to this section until a public hearing on such ordinance has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

6. The provisions of this section shall not apply to any state highway

maintained by the state.

* NB There are 2 § 1640-o's

*** § 1640-p. Pilot residential parking permit system in the city of Buffalo.** 1. Notwithstanding the provisions of any law to the contrary, the city of Buffalo may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the city of Buffalo consisting of the following roadways:

(a) Maple Street, from BFNC Drive to North Street;

(b) Mulberry Street, from BFNC Drive to North Street;

(c) Locust Street, from BFNC Drive to North Street;

(d) Lemon Street, from BFNC Drive to North Street;

(e) Orange Street, from BFNC Drive to North Street;

(f) Peach Street, from BFNC Drive to North Street;

(g) Grape Street, from BFNC Drive to North Street;

(h) Rose Street, from BFNC Drive to North Street;

(i) High Street, from Michigan Avenue to Rose Street;

(j) Carlton Street, from Maple Street to Rose Street;

(k) Virginia Street, from Maple Street to BFNC Drive; and

(l) North Street, from Maple Street to Rose Street.

3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial, office and/or retail use.

4. The local law or ordinance providing for such residential parking permit system shall:

(a) Set forth factors necessitating the enactment of such parking system;

(b) Provide that motor vehicles registered pursuant to section four

hundred four-a of this chapter shall be exempt from any permit requirement;

(c) Provide the times of the day and the days of the week during which permit requirements shall be in effect;

(d) Make not less than twenty percent of all spaces within the permit area available to nonresidents and shall provide short-term parking of not less than ninety minutes in duration in such area;

(e) Provide the schedule of fees to be paid for such permits; and

(f) Provide that such fees shall be credited to the general fund of the city of Buffalo.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB Repealed December 31, 2026

§ 1640-q. Residential parking system in the village of Croton-on-Hudson. 1. Notwithstanding the provisions of any law to the contrary, the village board of trustees of the village of Croton-on-Hudson may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the village of Croton-on-Hudson on Young Avenue and Hastings Avenue and Truesdale Drive, Nordica Drive, Cedar Lane, and Old Post Road South from Truesdale Drive to Morningside Drive.

3. Notwithstanding the foregoing, no permit shall be required on streets or portion of streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking

system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

§ 1640-r. Residential parking system in the village of Floral Park in the county of Nassau. 1. Notwithstanding the provisions of any law to the contrary, the village board of the village of Floral Park may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the village which shall mean that area generally bounded by the following:

All of that area beginning at the intersection of Plainfield Avenue and Magnolia Avenue; proceeding east on Magnolia Avenue to its intersection with Ward Street; thence running southerly on Ward Street to its intersection with Tulip Avenue and East Poplar Street; thence running southerly on East Poplar Street to its intersection with Cypress Street; thence running westerly on Cypress Street to its intersection with Floral Parkway; thence running southeasterly on Floral Parkway to

its intersection with Cedar Street; thence running southerly on Cedar street to its intersection with Cedar Place; thence running southerly on Cedar Place to its intersection with West Poplar Street; thence running southerly on West Poplar Street to its intersection with Miller Avenue; thence running westerly on Miller Avenue to its intersection with Beech Street; thence running southerly on Beech Street to its intersection with Vandewater Avenue; thence running westerly on Vandewater Avenue to its intersection with Plainfield Avenue; thence running northerly on Plainfield Avenue to its intersection with Zinnia Street; thence running westerly on Zinnia Street to its intersection with Violet Avenue; thence running southerly on Violet Avenue to its intersection with Pandosa Memorial Avenue; thence running westerly on Pandosa Memorial Avenue to a point where it intersects with the border between the Village of Floral Park and Belmont Park; thence running .835 miles westerly and then northerly along the border between the Village of Floral Park and Belmont Park to a point where it intersects with Poppy Place; thence running easterly on Poppy Place to its intersection with Larch Avenue; thence running northerly on Larch Avenue to its intersection with Atlantic Avenue; thence running easterly on Atlantic Avenue to its intersection with Woodbine Court; thence running easterly on Woodbine Court to its intersection with Plainfield Avenue and Magnolia Avenue, the place of beginning. For the purposes of this paragraph, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description; provided, however, that except for the reference to state highways solely for the purposes of delineating the boundaries of the area described in this paragraph, the provisions of this section shall not apply to any state highway maintained by the state.

3. Notwithstanding the foregoing, no permit shall be required on streets or those portions of such streets where the adjacent properties are zoned for commercial or retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than twenty percent of all spaces within the permit area available to non-residents, and shall provide short-term parking of not less than ninety minutes in duration in such area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

*** § 1640-r. Residential parking system in the city of New Rochelle.** 1. Notwithstanding the provisions of any law to the contrary, the city council of the city of New Rochelle may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the city of New Rochelle on Farragut Circle, Decatur Road and Sutton Manor Road.

3. Notwithstanding the foregoing, no permit shall be required on streets or portion of streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 3 § 1640-r's

*** § 1640-r. Residential parking system in the city of Rye.** 1. Notwithstanding the provisions of any law to the contrary, the city council of the city of Rye may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the city of Rye on Mead Place.

3. Notwithstanding the foregoing, no permit shall be required on streets or those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than twenty percent of all spaces within the permit area available to non-residents, and shall provide short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the city.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

* NB There are 3 § 1640-r's

§ 1640-s. Residential parking system in the village of Port Chester. 1. Notwithstanding the provisions of any law to the contrary, the village board of trustees of the village of Port Chester may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the village which shall mean that area generally bounded by the following: All of that area beginning at Franklin Street and the westerly border of the village of Port Chester; thence running easterly on Franklin Street to South Regent Street; thence running northerly on South Regent Street to Westchester Avenue; thence running easterly on Westchester Avenue to Pearl Street; thence running southerly on Pearl Street to Boston Post Road; thence running southerly on Boston Post Road to the southern border of the village of Port Chester; thence running .15 miles westerly and then northerly along the border between the village of Port Chester and the city of Rye to a point where it

intersects with Franklin Street, the place of beginning. For the purposes of this subdivision, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description; provided, however, that except for the reference to state highways and to Westchester Avenue and Pearl Street solely for the purposes of delineating the boundaries of the area described in this subdivision, the provisions of this section shall not apply to any state highway maintained by the state nor to Westchester Avenue or Pearl Street.

3. Notwithstanding the foregoing, no permit shall be required on streets or portions of streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than fifteen percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the village.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

§ 1641. Additional traffic regulations on all highways except state highways maintained by the state in cities and villages. In addition to

the other powers granted by this article, the legislative body of any city or village with respect to highways (which term for the purposes of this section shall include private roads open to public motor vehicle traffic) in such city or village except state highways maintained by the state, may by local law, ordinance, order, rule or regulation:

1. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any vehicle, device moved by human power or pedestrian.

2. Authorize angle parking on any roadway.

3. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction.

4. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.

5. Designate a portion of a slope as a path for the use of bicycles.

6. Order signs or markings to identify the portion of the highway to be used for bicycle travel.

7. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway.

8. Designate preferential use lanes for specified types or classes of vehicles.

§ 1642. Additional traffic regulations in cities having a population in excess of one million. (a) In addition to the other powers granted by this article, the legislative body of any city having a population in excess of one million, may by local law, ordinance, order, rule, regulation or health code provision prohibit, restrict or regulate

traffic on or pedestrian use of any highway (which term, for the purposes of this section, shall include any private road open to public motor vehicle traffic) in such city. The provisions of section sixteen hundred shall be applicable to such local laws, ordinances, orders, rules, regulations, and health code provisions, provided, however, that such local laws, ordinances, orders, rules, regulations and health code provisions shall supersede the provisions of this chapter where inconsistent or in conflict with respect to the following enumerated subjects:

1. Weights and dimensions of vehicles.

2. Parking, standing, stopping and backing of vehicles.

3. The prohibition or regulation of the use of any highway by particular vehicles or classes or types thereof or devices moved by human power.

4. Charging of tolls, taxes, fees, licenses or permits for the use of the highway or any of its parts, where the imposition thereof is authorized by law.

5. Establishment of minimum speed limits at which vehicles may proceed on or along such highways.

6. Operation of authorized emergency vehicles.

7. Control of persons and equipment engaged in work on the highway.

8. Hitchhiking and commercial activities.

9. Use of medial strips and dividing malls or sections and use of shoulders of the highway.

10. Right of way of vehicles and pedestrians.

11. Use of the highway by pedestrians, equestrians and animals.

12. Turning of vehicles.

13. Regulation of the direction of the movement of traffic and the use of traffic lanes.

14. Regulation of the use of horns, lights and other required equipment of vehicles.

15. Towing and pushing of vehicles, including, but not limited to, the establishment of minimum insurance levels for and the licensing and regulation of persons engaged in the business of towing, and the fixing of maximum charges to be made by such persons for the towing and storage of disabled vehicles.

16. Objects projecting or hanging outside or on the top of vehicles.

17. Entering and driving off the highway, its roadways, medial strips, dividing malls and shoulders.

18. The prohibition or regulation of speed contests, races, exhibitions of speed, processions or parades.

19. Littering the highway.

20. Vehicles illegally parked, stopped or standing, or vehicles involved in accidents, including, but not limited to, the removal and storage of such vehicles, the fixing of reasonable charges, to be paid by the owner, operator or person entitled to possession, for such removal and storage and for other expenses incurred in connection therewith, the creation of liens on such vehicles for such charges and expenses, the enforcement of such liens, the determination of ownership or right to possession of such vehicles, the time before such vehicles are deemed abandoned vehicles pursuant to section twelve hundred twenty-four of this chapter, and the disposition of the proceeds of sales held pursuant to said section.

21. Transportation of combustibles, chemicals, explosives, inflammables, or other dangerous substances, articles, compounds or mixtures, including, but not limited to, dangerous articles, as defined in section three hundred eighty of this chapter.

22. Traffic signal legend applicable to pedestrians and use of arrows.

23. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway.

24. Prohibition of the operation of motorcycles during the period between nine post meridian through eight ante meridian along designated streets or parts of streets on which the properties fronting thereon are zoned for residential uses. Provided that notice of such prohibition shall be given by the posting of suitable signs at the entrance to each such street or part thereof and that no such prohibition shall apply to a motorcycle being operated thereon for the purpose or as a direct incident of law enforcement; crime prevention; detection; prevention or relief of any condition which may threaten the health, safety or welfare of persons or property; or direct travel to or from employment.

25. Parking, standing and stopping of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

26. (a) With respect to highways (which term for the purposes of this paragraph shall include private roads open to public motor vehicle traffic) in such city, other than state highways maintained by the state on which the department of transportation shall have established higher or lower speed limits than the statutory fifty-five miles per hour speed limit as provided in section sixteen hundred twenty of this title, or on which the department of transportation shall have designated that such city shall not establish any maximum speed limit as provided in section sixteen hundred twenty-four of this title, subject to the limitations imposed by section sixteen hundred eighty-four of this title, establishment of maximum speed limits at which vehicles may proceed

within such city or within designated areas of such city higher or lower than the fifty-five miles per hour maximum statutory limit. No such speed limit applicable throughout such city or within designated areas of such city shall be established at less than twenty miles per hour, except that (i) school speed limits may be established at no less than fifteen miles per hour pursuant to the provisions of section sixteen hundred forty-three of this article, and (ii) on portions of highways that consist of three or more vehicular travel lanes in the same direction outside of New York county, speed limits shall be established at no less than twenty-five miles per hour.

(b) A city shall not lower or raise a speed limit pursuant to this paragraph unless such city provides written notice and an opportunity to comment to the community board or community boards established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the lower or higher speed limit shall apply. Such notice may be provided by electronic mail and shall be provided sixty days prior to the establishment of such lower or higher speed limit and a community board may issue an advisory opinion prior to the raising or lowering of such speed limit. Notwithstanding any inconsistent provision of this subdivision, a speed limit applicable throughout such city shall only be lowered or raised pursuant to a local law.

27. (a) Establishment of maximum speed limits below twenty miles per hour at which motor vehicles may proceed on or along designated highways within such city for the explicit purpose of implementing traffic calming measures as such term is defined herein; provided, however, that no speed limit shall be set below ten miles per hour nor shall such speed limit be established where the traffic calming measure to be implemented consists solely of a traffic control sign. Establishment of such a speed limit shall, where applicable, be in compliance with the provisions of sections sixteen hundred twenty-four and sixteen hundred eighty-four of this title. Nothing contained herein shall be deemed to alter or affect the establishment of school speed limits pursuant to the provisions of section sixteen hundred forty-three of this article. For the purposes of this paragraph, "traffic calming measures" shall mean any physical engineering measure or measures that reduce the negative

effects of motor vehicle use, alter driver behavior and improve conditions for non-motorized street users such as pedestrians and bicyclists.

(b) Any city establishing maximum speed limits below twenty miles per hour pursuant to clause (i) of this subparagraph shall submit a report to the governor, the temporary president of the senate and the speaker of the assembly on or before March first, two thousand fifteen and biannually thereafter on the results of using traffic calming measures and speed limits lower than twenty miles per hour as authorized by this paragraph. This report shall also be made available to the public by such city on its website. Such report shall include, but not be limited to the following:

(i) a description of the designated highways where traffic calming measures and a lower speed limit were established;

(ii) a description of the specific traffic calming measures used and the maximum speed limit established;

(iii) an explanation of the reasons for setting lower speed limits, how those lower speed limits comply with engineering standards, and how they will ensure that motor vehicles can operate at safe speeds in a manner that optimizes all road users' safety and convenience; and

(iv) a comparison of the aggregate type, number, and severity of accidents reported on streets on which street calming measures and lower speed limits were implemented in the year preceding the implementation of such measures and policies and the year following the implementation of such measures and policies, to the extent this information is maintained by any agency of the state or the city.

(b) The police commissioner of any such city may, in any emergency, suspend within such city or any part thereof, for a period of forty-eight hours, any provision of title seven of this chapter or any local law, ordinance, order, rule or regulation adopted pursuant to this article. In the event of any such suspension, the police commissioner shall forthwith give notice thereof to the official, board or agency of such city having jurisdiction to promulgate traffic regulations in relation to any place affected by such suspension.

§ 1642-a. Bus permit system in cities having a population of one

million or more. 1. For the purposes of this section, the following terms shall have the following meanings:

a. "Charter bus" shall mean a bus transporting passengers for compensation in chartered party.

b. "Chartered party" shall mean a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge, have acquired exclusive use of a bus to travel together as a group to a specific destination or for a particular itinerary either agreed upon in advance or modified after having left the place of origin by such group.

c. "Community board" shall mean a community board as defined in section twenty-eight hundred of the New York city charter.

d. "Intercity bus" shall mean a bus that transports the general public between a city having a population of one million or more and any location outside of such city in scheduled bus service. Provided, however, that such term shall not include a school bus; or a bus providing public transportation; or a charter bus.

e. "Metropolitan transportation authority" shall mean the corporation created by section twelve hundred sixty-three of the public authorities law.

f. "Public transportation" shall mean:

(i) mass transportation services provided to the general public by any public benefit corporation constituting a transportation authority, or a subsidiary thereof, or any public transportation corporation constituted as an instrumentality of a state, or a subsidiary thereof, directly or through a contact with another entity, or

(ii) mass transportation services provided to the general public by any county, city, town or village directly or through a contract with another entity pursuant to section one hundred nineteen-r of the general municipal law, or provided to the general public by another state or any county, city, town or village in a state other than New York directly or through a contract with another entity pursuant to a similar law of such

other state.

2. Notwithstanding any provision of law to the contrary, any city having a population of one million or more may prohibit intercity buses from loading or unloading passengers on streets within such city except on designated streets and at designated locations on such streets pursuant to a permit in accordance with the provisions of this section.

3. The mayor of such city which acts pursuant to subdivision two of this section shall designate an agency to promulgate rules to implement this section. Such city agency shall promulgate such rules which shall comply with chapter forty-five of the New York city charter including a public hearing. Such rules shall:

a. Establish a system of permits for allocating locations on designated streets where intercity buses may load and unload passengers, and prohibit loading and unloading of passengers other than at such designated locations on such designated streets pursuant to a permit;

b. Require the owner or operator of an intercity bus to submit an application for a permit for each proposed location for loading and unloading of passengers. Such application shall include the following information:

(i) The name, address, telephone number, e-mail address and motor carrier number of the intercity bus owner or operator, the United States department of transportation number and/or New York state department of transportation number for each bus that would use such proposed location;

(ii) A proposed location or locations to be used by the specified intercity buses for loading or unloading passengers, and two or more alternative proposed locations;

(iii) The number of intercity buses that would use the proposed location or locations;

(iv) The number of passengers anticipated for each such intercity bus;

(v) The proposed intercity bus schedule;

(vi) The planned garage or parking location of the intercity buses during periods when such buses are not being used; and

(vii) Any other information deemed necessary by the commissioner of the city agency designated pursuant to this subdivision.

c. Establish criteria for assigning locations to permit applicants, which shall include traffic and safety considerations, the preferences of the applicant, consultation with the local community board as provided in paragraph b of subdivision four of this section and other criteria deemed appropriate by the commissioner of such city agency;

d. Provide that such permit shall be issued for a term of up to three years, except that such city may relocate a designated location for the loading and unloading of passengers by an intercity bus, upon ninety days notice to the holder of a permit and after consultation with the local community board as provided in paragraph b of subdivision four of this section, pursuant to the criteria established in accordance with paragraph c of this subdivision;

e. Include criteria under which intercity bus owners or operators assigned a designated location for loading and unloading passengers prior to the effective date of this section shall be issued a permit to use such location for the loading and unloading of passengers for a period of up to three years from the effective date of this section;

f. Establish a timeframe of up to one hundred fifty days for determinations on permit applications, and a process for reviewing the determination on the application;

g. Require intercity bus owners or operators to notify such city agency of changes to information provided in such permit application;

h. Require intercity bus owners or operators to prominently display a copy of the permit in each intercity bus;

i. Require the posting of all approved applications on a website for public access by such city agency within thirty days of approval;

j. Include such other requirements as are deemed appropriate by the

commissioner of such city agency;

k. Set forth a schedule of fines or civil penalties for violations of the rules by owners or operators of intercity buses, including for loading or unloading passengers on a city street without a permit or for failure to comply with any permit requirements or restrictions, provided that such fines or civil penalties shall not be more than one thousand dollars for a first violation, and not be more than two thousand five hundred dollars for a second or subsequent violation within two years of the first violation; and

1. Provide for the suspension or revocation of a permit for failure to comply with any permit requirements or restrictions.

Such rules also may provide for the imposition of an annual fee for such permit to cover administrative expenses, not to exceed two hundred seventy-five dollars per vehicle.

4. The city agency designated pursuant to subdivision three of this section to promulgate rules shall:

a. Have the authority to designate streets and locations where the loading or unloading of passengers by intercity buses shall be permitted;

b. Consult with the local community board for the district encompassing the location to be designated in a permit, including but not limited to a notice and comment period of forty-five days, prior to the issuance or permanent amendment of such permit;

c. Consult with the metropolitan transportation authority when a proposed location or relocation for the loading and unloading of passengers by an intercity bus would overlap with an existing metropolitan transportation authority bus stop;

d. Consult with the port authority of New York and New Jersey when a proposed location or relocation for the loading and unloading of

passengers by an intercity bus would overlap with an existing port authority of New York and New Jersey bus facility.

e. Post all locations designated for the loading and unloading of passengers by intercity bus on a website for public access within thirty days of approval; and

f. Have the authority to temporarily amend any approved location for a period of up to ninety days for reasons of public safety or other emergency or temporary need as determined by such city agency without prior consultation with the local community board; provided that such city agency informs the affected community board in writing no more than thirty days after any such temporary amendment.

5. Notwithstanding any other provision of law, in addition to those persons otherwise authorized to enforce any rules promulgated pursuant to this section and adjudicate violations thereof pursuant to article two-A or two-B of this chapter, this section shall also be enforceable by an agency or agencies designated for such purpose by the mayor of such city, and notices of violation issued by such agency or agencies shall be returnable to the environmental control board of such city, which shall have the power to impose the civil penalties herein provided. All proceedings before the environmental control board and any enforcement proceedings shall be conducted in accordance with subdivision d of section one thousand forty-nine-a of the New York city charter and the rules of the environmental control board, except that service of a notice of violation of any rule promulgated pursuant to this section shall be made on the owner or operator of the intercity bus involved in the violation (i) in the same manner as is prescribed for service of process by article three of the civil practice law and rules or article three of the business corporation law; (ii) by delivering such notice to the operator of the intercity bus, and mailing a copy of the notice to the owner or operator of the intercity bus, provided that proof of such service shall be filed with the environmental control board within twenty days, and service shall be complete ten days after such filing; or (iii) by affixing such notice to the intercity bus, and mailing a copy of the notice to the owner or operator of the intercity

bus, provided that proof of such service shall be filed with the environmental control board within twenty days, and service shall be complete ten days after such filing. Civil penalties may also be recovered in a proceeding commenced in a court of competent jurisdiction. Notwithstanding any other provision of law, such civil penalties imposed by such environmental control board shall be paid into the general fund of such city. Notwithstanding section one hundred fifty-five of this chapter or any other provision of law, where a person has been adjudicated to be in violation of any rules promulgated pursuant to subdivision three of this section, such adjudication shall not have the force and effect of a conviction of a traffic infraction or of a violation of any provision of this chapter for any purpose not specified in this section.

*** § 1642-b. Installation and operation of intelligent speed assistance devices; demonstration program in the city of New York.** 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

a. "Administering agency" shall mean one or more agencies and/or administrative tribunals designated by the mayor of a city having a population in excess of one million to administer an intelligent speed assistance device demonstration program authorized pursuant to this section; provided, however, that a non-governmental entity shall not be designated as an administering agency;

b. "Installation period" shall mean the mandatory period of time that an owner is required to install and maintain an intelligent speed assistance device pursuant to a local law or ordinance adopted pursuant to this section;

c. "Intelligent speed assistance device" shall mean a device installed on a motor vehicle utilizing technology to restrict the speed of the motor vehicle based on the maximum speed limits established pursuant to this chapter where such motor vehicle is being operated. Such technology shall allow for the manual override of such restrictions past the speed

limit, if necessary, based on traffic conditions; and

d. "Owner" shall have the same meaning as provided in section one hundred twenty-eight of this chapter.

2. Establishment. Notwithstanding any provision of law to the contrary, the city of New York is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program authorizing the imposition of a requirement on the owner of a particular motor vehicle who has been found liable for monetary penalties for violations, in a school speed zone within such city, of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter following entry of a final decision or decisions in response to sixteen notices of liability issued within a twelve month period to such owner with respect to such particular motor vehicle for failure of an operator thereof to comply with such posted maximum speed limits in a school speed zone within such city pursuant to such photo speed violation monitoring system demonstration program, to install and maintain an intelligent speed assistance device in accordance with the provisions of a local law or ordinance adopted pursuant to this section. Such local law or ordinance may provide for exemptions for certain categories of vehicles for which installation of an intelligent speed assistance device would not further the purposes of such demonstration program or which could otherwise impair public safety or general welfare. Provided, however, that the following shall be exempt from the demonstration program authorized pursuant to this section: (a) motor vehicles owned or leased by the state, a governmental entity, a public authority, a county, town, city, village or any other political subdivision of the state; (b) motor vehicles owned or leased by a business entity that are routinely operated by two or more of such entity's workers, provided, however, that if a business entity assigns a vehicle to a single worker, and during the period of such assignment the vehicle has been made subject

to an order for installation of an intelligent speed assistance device as set forth in subdivision three of this section, such particular vehicle shall be subject to the provisions of this section; (c) licensed vehicles as defined in section 19-502 of the administrative code of the city of New York, regulated by the New York city taxi and limousine commission; and (d) authorized emergency vehicles. For purposes of this subdivision, the term "business entity" shall mean an entity organized under the laws of the state, or authorized to do business in the state, including but not limited to, business corporations, limited liability companies, partnerships, or not-for-profit corporations, but shall not include such entities organized or authorized that do not perform a bona fide business purpose, nor entities owned by a single person or household, including but not limited to single-member limited liability companies or single shareholder corporations.

3. Determination and notification. a. Whenever the administering agency determines that an owner of a particular motor vehicle has been found liable for monetary penalties following entry of a final decision or decisions in response to sixteen notices of liability issued within a period of twelve months with respect to such particular motor vehicle for failure of an operator thereof to comply with posted maximum speed limits in a school speed zone within such city when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this chapter or when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation-monitoring systems in accordance with article thirty of this chapter, such administering agency shall order the installation of an intelligent speed assistance device on such motor vehicle and, except as otherwise provided in paragraph (b) of subdivision two of this section, on each other motor vehicle owned by such owner during the relevant installation period. Such administering agency shall send such owner no fewer than two written notices that they are required to install and maintain a functioning intelligent speed assistance device, of a model and type as specified pursuant to a local law or ordinance adopted pursuant to this section, for the applicable installation period as provided in subdivision four of this section.

Such notifications shall include: (i) a date certain by which an intelligent speed assistance device must be installed; (ii) a statement that the owner must provide the administering agency with proof of compliance within thirty days of the date the owner is ordered to install such device and instructions for how to submit such proof; (iii) a statement that the owner shall be responsible for the cost of installing, maintaining, and removing such device absent a finding of financial inability to pay, the approximate cost to the owner of installing, maintaining, and removing such device, and that such costs may be paid in installments; (iv) information advising the owner of the manner and the time in which they may contest the order to install an intelligent speed assistance device; and (v) prominent warnings that failure to install such device and failure to submit proof of such compliance could result in a violation, registration suspension, and an extension of the installation period unless the administering agency makes a finding of good cause for such failure. Such administering agency shall also offer an opportunity to each owner to formally contest an order to install an intelligent speed assistance device following the issuance of such order and prior to the date certain that such device must be installed pursuant to subdivision five of this section, and pursuant to published criteria to be considered in determining whether such order shall be upheld or withdrawn, which shall include whether such vehicles are exempt pursuant to subdivision two of this section, provided that: (A) such opportunity shall not permit such owner to contest any notices of liability previously adjudicated to finality where such owner was found liable for monetary penalties issued pursuant to section eleven hundred eighty-b of this chapter; and (B) following a proper contestation submission, the relevant installation period shall not commence until such contestation process has fully completed and such order shall have been upheld or withdrawn.

b. Following the failure of an owner to install an intelligent speed assistance device by the date certain required to be provided to such owner pursuant to paragraph (a) of this subdivision, an additional written notification shall be sent to such owner to notify them of such failure and of the statements and warning set forth in subparagraphs (ii), (iii), (iv) and (v) of such paragraph.

4. Installation and removal. a. An owner required to install and maintain an intelligent speed assistance device pursuant to a local law or ordinance adopted pursuant to this section shall install and maintain a functioning intelligent speed assistance device in accordance with the provisions of such local law or ordinance: (i) for a period of twelve months for the first time an owner is ordered to install an intelligent speed assistance device under this subdivision; (ii) for a period of twenty-four months the second time such owner is mandated to install an intelligent speed assistance device under this subdivision within a period of ten years of completing the first term of installation; (iii) for a period of thirty-six months the third time such owner is mandated to install an intelligent speed assistance device under this subdivision within a period of fifteen years of completing the first term of installation; and (iv) for the fourth or subsequent time such owner is mandated to install an intelligent speed assistance device under this subdivision, a period of time not to conclude until such time as the administering agency approves such removal.

b. Upon the conclusion of the period in which an owner is required to install and maintain an intelligent speed assistance device, the administering agency of such city shall provide written notification authorizing the removal of such device to such owner and shall notify the commissioner in such manner and form as the commissioner may prescribe, and the commissioner shall remove any corresponding notation on each applicable registration record of such owner.

5. Monitoring of compliance and recording of condition. a. The owner of a motor vehicle required to install and maintain an intelligent speed assistance device pursuant to a local law or ordinance adopted pursuant to this section shall provide proof of installation to the administering agency of such city, in a manner provided by such local law or ordinance, within thirty days of the date certain that such device must be installed by such owner as ordered by the administering agency.

b. When the administering agency of such city imposes the condition specified in subdivision three of this section, it shall notify the

commissioner in such manner and form as the commissioner may prescribe, and, if practicable, the commissioner shall note such condition on the owner's registration record of each motor vehicle subject to such condition.

c. A local law or ordinance adopted pursuant to this section shall provide for the monitoring of compliance of owners required to install and maintain an intelligent speed assistance device pursuant to a demonstration program established pursuant to this section.

6. Cost of installation and maintenance. a. The cost of installation, maintenance including repair and replacement, and removal of the intelligent speed assistance device shall be borne by the owner subject to such condition and such cost may be paid in installments at no charge to the owner. The administering agency shall offer such owners the opportunity to enter into an installment payment plan at any time. Provided, however, that when the administering agency determines such owner is financially unable to afford such cost, such cost shall be waived. An owner shall be presumptively deemed to be financially unable to afford such cost if the owner's household income is at or below two hundred percent of the federal poverty level as documented.

b. The service provider of the device shall be responsible for the installation, calibration, maintenance, and removal of such device. The service provider shall also be responsible for providing written user instructions and device guidelines to owners whose vehicles are equipped with such devices.

7. Privacy. a. A local law or ordinance adopted pursuant to this section shall include measures to protect the privacy of owners required to install and maintain intelligent speed assistance devices and to enforce such measures. Such measures shall include:

(i) encryption of information and data created, collected, recorded, or otherwise captured by intelligent speed assistance devices installed and maintained by owners including, but not limited to, personally identifiable information, geolocation data, and any data and information shared between administering agencies and the manufacturers and service

providers of such devices;

(ii) de-identifying or aggregating of motor vehicle geolocation data;

(iii) restricting the information obtained by the administering agency from intelligent speed assistance devices to only that which is strictly necessary to monitor compliance by an owner required to install and maintain an intelligent speed assistance device;

(iv) creation of a framework in accordance with state law for data collection, storage, sharing, and destruction that adheres to the restrictions provided in this subdivision;

(v) methods to inform owners required to install and maintain intelligent speed assistance devices of what data is collected, how it is used, and with whom it may be shared;

(vi) oversight procedures to enforce compliance with the privacy protection measures under this subdivision and any local law or ordinance adopted pursuant to this section including but not limited to security audits to ensure consistent application and ongoing compliance of the administering agency, intelligent speed assistance device manufacturers and service providers; and

(vii) information security standards including identifying and assessing internal and external security risks, physical access controls, up-to-date anti-malware software, and documented incident response procedures.

b. Information and data created, collected, recorded, or otherwise captured by intelligent speed assistance devices shall be for the exclusive use of the city of New York for the sole purpose of monitoring compliance with the requirement of an owner to install and maintain an intelligent speed assistance device, and shall be destroyed by such city upon the completion of the term of such installation and maintenance. Notwithstanding the provisions of any other law, rule or regulation to the contrary, information and data from an intelligent speed assistance device 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 monitoring of compliance pursuant to this section, and no public entity or employee, officer or agent thereof shall disclose such information, except that such information and data shall

be available for inspection and copying and use by the motor vehicle owner for so long as such information and data are required to be maintained or are maintained by such public entity, employee, officer or agent.

c. No person, firm, association, partnership, limited liability company, corporation, manufacturer or service provider shall sell, share, transfer, publish, lease, release, or otherwise make available to any third party any personally identifiable information or any information and data created, collected, recorded, or otherwise captured by intelligent speed assistance devices installed and maintained by owners pursuant to a local law adopted pursuant to this section, and shall destroy such information and data upon the completion of the term of such installation and maintenance. For the purposes of this paragraph, "third party" shall not include an administering agency.

8. Certification and standards. a. The administering agency shall approve intelligent speed assistance devices and service providers of intelligent speed assistance devices pursuant to a local law or ordinance adopted pursuant to this section and shall publish a list of approved devices and service providers which shall be publicly available. Service providers approved by the administering agency shall be required to be qualified to install, calibrate, service, and remove approved intelligent speed assistance devices, and shall comply with the privacy requirements of subdivision seven of this section and any local law or ordinance adopted pursuant to this section.

b. After consultation with manufacturers of intelligent speed assistance devices, the administering agency shall promulgate regulations regarding standards for, and use of, intelligent speed assistance devices. Such standards shall include provisions for device calibration and shall also include, but not be limited to, requirements that the devices:

(i) have features that make circumventing or bypassing the device difficult and that do not interfere with the normal or safe operation of the motor vehicle, provided that the manual override referenced in paragraph c of subdivision one of this section shall not be considered a

feature to circumvent or bypass the device;

(ii) work accurately and reliably in an unsupervised environment;

(iii) resist tampering and give evidence if tampering is attempted;

(iv) minimize inconvenience to users of the motor vehicle;

(v) operate reliably over the range of motor vehicle environments and motor vehicle manufacturing standards; and

(vi) are manufactured by a party covered by product liability insurance and liability insurance against installation and maintenance errors.

9. Circumvention of intelligent speed assistance device; installation. a. No person shall tamper with or circumvent an otherwise operable intelligent speed assistance device. A first violation of this paragraph shall be a traffic infraction punishable by a fine of not less than fifteen hundred dollars nor more than twenty-five hundred dollars and the commissioner shall suspend the registration of the motor vehicle subject to the tampered or circumvented device pursuant to paragraph (a) of subdivision four-i of section five hundred ten of this chapter for twelve months and the relevant installation period shall be extended by six months. A subsequent violation of this paragraph shall be a traffic infraction punishable by a fine of not less than fifteen hundred dollars nor more than twenty-five hundred dollars and the commissioner shall suspend the registration of the motor vehicle subject to the tampered or circumvented device pursuant to paragraph (a) of subdivision four-i of section five hundred ten of this chapter for a period of twelve months and the relevant installation period shall be extended by twelve months.

b. No person required to install an intelligent speed assistance device pursuant to a local law or ordinance adopted pursuant to this section shall fail to install such device and provide proof of such installation to the administering agency within thirty days of the date certain that such device must be installed by such owner as ordered by the administering agency, absent a finding by the administering agency of good cause for that failure. A violation of this paragraph shall be a traffic infraction punishable by a fine of not less than fifteen hundred dollars nor more than twenty-five hundred dollars. Upon the failure by an owner to install such device and provide proof of such installation

to the administering agency within forty-five days of the date certain that such device must be installed by such owner as ordered by the administering agency, absent a finding by the administering agency of good cause for that failure, the commissioner shall suspend the registration of the relevant motor vehicle pursuant to paragraph (b) of subdivision four-i of section five hundred ten of this chapter.

c. Notwithstanding the provisions of any other law, rule or regulation to the contrary, following entry of a final decision or decisions in response to three notices of liability issued to an owner of a particular motor vehicle for failure of an operator thereof to comply with posted maximum speed limits in a school speed zone within the city of New York pursuant to a photo speed violation monitoring system demonstration program in accordance with article thirty of this chapter after having failed to comply with an order to install an intelligent speed assistance device on such motor vehicle pursuant to a local law or ordinance adopted in accordance with this section by the date ordered shall constitute a traffic infraction punishable by a fine of not less than fifteen hundred dollars nor more than twenty-five hundred dollars; provided, however, that no traffic violation shall occur if any such notice of liability is issued following the expiration of the relevant installation period and authorization of the removal of the intelligent speed assistance device in accordance with subdivision four of this section. Following final adjudication of such traffic infraction the relevant installation period shall be extended by twelve months.

d. Following an order by the administering agency to a motor vehicle owner to install an intelligent speed assistance device with respect to such vehicle, the commissioner may, in their discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this section and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this section. Such denial shall only remain in effect until the administering agency has sent the

owner written notification authorizing the removal of such intelligent speed assistance device.

10. Warning label. The local law or ordinance adopted pursuant to this section shall provide for the design of a warning label which the manufacturer or service provider shall affix to each intelligent speed assistance device upon installation in the state. The label shall contain a warning that any person tampering or circumventing the device is guilty of a violation and may be subject to civil liability.

11. Reporting of program results. a. By July first, two thousand twenty-eight and every two years thereafter in which the demonstration program is operable, the administering agency shall submit a report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly transportation committees on the results of any demonstration program authorized by subdivision two of this section. Such report shall include at minimum and with respect to the preceding twenty-four months:

(i) the aggregate number of motor vehicle owners ordered to install an intelligent speed assistance device in accordance with subdivision three of this section, the aggregate number of such motor vehicles subject to such orders in total, and in the aggregate by county within New York state and within any other state;

(ii) the aggregate number of contestations elected by motor vehicle owners in accordance with paragraph a of subdivision three of this section and the percentage of such contestations resulting in (A) an upheld or (B) a withdrawn order;

(iii) in the aggregate, the number of motor vehicle owners authorized to remove such device, the number of motor vehicles to which such removal authorization applies, and the relevant installation period for each such device, pursuant to subdivision four of this section, which shall be anonymized;

(iv) in the aggregate, the number of motor vehicle owners for whom the cost of device installation was waived pursuant to subdivision six of this section;

(v) the list of service providers of intelligent speed assistance devices approved pursuant to subdivision eight hereof;

(vi) the aggregate number of violations for paragraphs a and b of subdivision nine of this section that were adjudicated and the results of such adjudications including breakdowns of dispositions made;

(vii) the number and amount of fines imposed, and the aggregate number of registrations suspended, for violations of paragraphs a and b of subdivision nine of this section; and

(viii) the effectiveness and adequacy of the demonstration program to determine the impact on speeding violations and prevention of crashes.

b. Such report shall also be made publicly available on the website of the New York city department of transportation.

* NB Effective May 26, 2027

* NB Repealed July 1, 2032

§ 1643. Speed limits on highways in cities and villages. The legislative body of any city or village with respect to highways (which term for the purposes of this section shall include private roads open to public motor vehicle traffic) in such city or village, other than state highways maintained by the state on which the department of transportation shall have established higher or lower speed limits than the statutory fifty-five miles per hour speed limit as provided in section sixteen hundred twenty of this title, or on which the department of transportation shall have designated that such city or village shall not establish any maximum speed limit as provided in section sixteen hundred twenty-four of this title, subject to the limitations imposed by section sixteen hundred eighty-four of this title may by local law, ordinance, order, rule or regulation establish maximum speed limits at which vehicles may proceed within such city or village, within designated areas of such city or village or on or along designated highways within such city or village higher or lower than the fifty-five miles per hour maximum statutory limit. No such speed limit applicable throughout such city or village or within designated areas of such city or village shall be established at less than thirty miles per hour; except that in the city of Long Beach, in the county of Nassau, speed limits may be established at not less than fifteen miles per hour on any portion of the following highways in such city: Cleveland avenue,

Harding avenue, Mitchell avenue, Belmont avenue, Atlantic avenue, Coolidge avenue, Wilson avenue and Taft avenue. No such speed limit applicable on or along designated highways within such city or village shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway and except that within the cities of Buffalo and Rochester speed limits may be established at not less than fifteen miles per hour for any portion of a highway within a city park.

§ 1644. Special speed limits on bridges and other elevated structures in cities and villages. The legislative body of any city or village may determine the maximum speed which may be maintained without structural damage on bridges and elevated structures in such city or village, and if such maximum speed is lower than the maximum speed limit otherwise applicable, subject to the limitations imposed by section sixteen hundred eighty-four, may by local law, ordinance, order, rule or regulation establish such lower maximum speed limits at which vehicles may proceed on such bridge or structure.

§ 1645. Exempting fuel oil trucks from use of truck routes in cities having a population in excess of one million. No ordinance, order, rule or regulation made by the legislative body of any city having a population in excess of one million shall require any fuel oil truck to use a designated truck route while such fuel oil truck is being used to make deliveries to a heating oil customer or is returning to the place of business of the owner of such fuel oil truck immediately after having made a delivery to a heating oil customer.

§ 1646. Application of article. This article shall not apply with respect to state highways maintained by the state which are controlled-access highways outside of cities having a population in excess of one million, nor to highways under the jurisdiction of the New

York state thruway authority, a regional state park commission, a county park commission, a parkway authority, a bridge authority, or a bridge and tunnel authority, except that this article shall apply to any portion of the New York state thruway that is located within a city having a population in excess of one million.

ARTICLE 40

REGULATION OF TRAFFIC BY COUNTY SUPERINTENDENT OF HIGHWAYS

Section 1650. Traffic regulations on county roads.

1651. Traffic regulations on county roads outside of cities and villages.

1652. Special speed limits on bridges and other elevated structures.

1652-a. Traffic signs, signals and marking on highways, roads and streets.

1652-b. Supervision and installation of traffic devices in Suffolk county.

§ 1650. Traffic regulations on county roads. (a) The county superintendent of highways of a county with respect to county roads in such county, may by order, rule or regulation:

1. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction.

2. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.

3. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of or crossing such markings would be especially hazardous in accordance with the standards, minimum warrants and sign or marking specifications

established by the department of transportation.

4. Temporarily exclude from any portion of any county road any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in his opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which such vehicles are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs as directed by the county superintendent of highways. Upon written application by any operator of a vehicle subject to this section, the county superintendent of highways may issue a permit providing appropriate exemption to such vehicle, if it is deemed that said vehicle is performing essential local pickup or delivery service and that a failure to grant such permit would create hardship. Every such permit may designate the route to be traversed and contain other reasonable restrictions or conditions deemed necessary. Every such permit shall be carried on the vehicle to which it refers and shall be open to inspection of any peace officer, acting pursuant to his special duties, or police officer. Such permits shall be for the duration of the restriction imposed under this section.

4-a. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from county highways, except for qualifying or access highways or set limits on hours of operation of such vehicles. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded.

5. Designate a portion of a slope as a path for the use of bicycles.

6. Order signs or markings to identify the portion of the highway to be used for bicycle travel.

* 7. Designate preferential use lanes for specified types or classes of vehicles.

* NB There are two par 7's

* 7. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route.

* NB There are two par 7's

(b) Each such county superintendent of highways shall cause to be determined, for all bridges and elevated structures under his jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. At bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of this chapter, the county superintendent of highways shall cause signs to be erected to inform persons of the safe capacity.

(c) Each such county superintendent of highways shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges, and elevated structures on highways under his jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required.

d. The legislative body of any county with respect to county roads in such county, may by local law, ordinance, order, rule or regulation, provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fire or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.

(e) The legislative body of any county with respect to county roads in such county, may by local law or ordinance prohibit vehicles engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians from stopping for the purpose of such sales on any such road or on all such roads. Nothing herein shall be construed to

prohibit the operator of such vehicle from stopping such vehicle off of such road, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer.

§ 1651. Traffic regulations on county roads outside of cities and villages. The county superintendent of highways of a county may by order, rule or regulation designate county roads in such county outside of cities and villages as through highways and order traffic signals, stop signs, flashing signals or yield signs erected on county roads or town highways at specified entrances to such through highways or designate any intersection of a county road with another county road or with a town highway as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection.

§ 1652. Special speed limits on bridges and other elevated structures. The county superintendent of highways of a county may determine the maximum speed which may be maintained without structural damage to bridges and elevated structures that are a part of any county road in such county and, if such maximum speed is lower than the maximum speed limit otherwise applicable, may by order, rule or regulation establish such lower maximum speed limit at which vehicles may proceed on such bridge or structure.

§ 1652-a. Traffic signs, signals and marking on highways, roads and streets. The county superintendent of highways of a county, except the county of Suffolk, having a functioning traffic engineering unit may, when authorized by the county governing board, have the responsibility and authority for the installation, removal and maintenance of traffic signs, signals and markings on, and provide traffic engineering services in relation to any highway, road or street within a city, town or village within such county, except state highways maintained by the state, providing the governing body of the city, town or village

consents thereto by written agreement with the county governing board as to the extent of the authority and responsibility of the county superintendent of highways and any apportionment of costs for the installation, removal and maintenance of the signs, signals and markings and traffic engineering services. The power granted to the county superintendent of highways by this section shall in no way diminish any power over roads granted to counties or county highway superintendents but shall be in addition to any such powers.

§ 1652-b. Supervision and installation of traffic devices in Suffolk county. The county superintendent of highways of Suffolk county may, when authorized by the Suffolk county governing board, erect and maintain traffic signs, signals and markings on, and provide traffic engineering services in relation to any highway, road or street within a town or village within such county, except state highways maintained by the state, providing the governing body of the town or village having jurisdiction over such highway, road or street determines on the basis of an engineering and traffic investigation that such traffic signs, signals and markings are necessary, issues any necessary ordinance, order, rule or regulation with respect thereto, consents to the erection and maintenance of such traffic signs, signals and markings by the county and consents thereto by written agreement with the Suffolk county governing board as to the extent of the authority and responsibility of the county superintendent of highways of Suffolk county and any apportionment of costs for the erection and maintenance of signs, signals and markings and traffic engineering services. The power granted to the Suffolk county superintendent of highways by this section shall in no way diminish any power over roads granted to him by law but shall be in addition to any such powers.

ARTICLE 41

REGULATION OF TRAFFIC BY TOWNS

Section 1660. Traffic regulation in all towns.
1660-a. Traffic regulations at parking areas and driveways of hospitals, shopping centers, office buildings and

office building complexes, places of public assembly, private apartment complexes, fire stations, private condominium complexes, mobile home parks, manufactured home parks, industrial parks and industrial complexes.
1662. Additional traffic regulations in towns in the county of Suffolk.
1662-a. Speed limits in certain towns.
1662-b. Residential parking system in the town of Eastchester in the county of Westchester.
1662-c. Residential parking system in the town of Harrison.
1662-d. Residential parking system in the town of Mamaroneck.
1662-e. Residential parking system in the town of Hempstead.
1663. Special speed limits on bridges and other elevated structures.
1664. Application of article.

§ 1660. Traffic regulation in all towns. (a) The town board of any town with respect to highways outside of villages in any such town, but not including state highways maintained by the state except with respect to subdivisions six, eight, nine and ten, subject to the limitations imposed by section sixteen hundred eighty-four may by ordinance, order, rule or regulation:

1. Designate county roads and town highways as through highways and order stop signs, flashing signals or yield signs erected on county roads or town highways at specified entrances to such through highways or designate any intersection except those where one or more entering highways is a state highway maintained by the state as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersections.

2. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction.

3. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs,

signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.

4. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of or crossing such markings would be especially hazardous in accordance with the standards, minimum warrants and sign or marking specifications established by the department of transportation.

5. Regulate traffic by means of traffic-control signals.

6. (i) License, regulate or prohibit speed contests, races, exhibitions of speed, processions, assemblages, or parades. Whenever such a speed contest, race, exhibition of speed, procession, assemblage or parade authorized by a local authority will block the movement of traffic on a state highway maintained by the state, or on a highway which connects two state highways maintained by the state to make a through route, for a period in excess of ten minutes, such authority must, prior to such blocking, provide and designate with conspicuous signs a detour adequate to prevent unreasonable delay in the movement of traffic on said state highway maintained by the state.

(ii) Prohibit vehicles engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians from stopping for the purpose of such sales on any highway within such town or on all such highways. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off of such highway, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer.

7. Prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks.

8. Provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fires or other public emergencies, or found unattended where they constitute an obstruction to

traffic or any place where stopping, standing or parking is prohibited and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.

9. Provide for the installation, operation, maintenance, policing and supervision of parking meters, establish parking time limits at such meters, designate hours of operation of such meters, and, except as provided in section twelve hundred three-h of this chapter, fix and require the payment of a fee applicable to parking where such meters are in operation. The town board of any town may exercise these powers on behalf and at the expense of a public parking district with respect to highways outside of villages but within such public parking district, in which event the fees from such parking meters shall belong to such district, and the cost of operation and maintenance thereof shall thereafter be borne by such public parking district.

10. Establish a system of truck routes upon which all trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of ten thousand pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route system. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connection with all state routes entering or leaving such town.

11. Temporarily exclude from any portion of any town highway any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in its opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which such vehicles are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs as directed by the town board. Upon written application by any operator of a vehicle

subject to this section, the town board may issue a permit providing appropriate exemption to such vehicle, if it is deemed that said vehicle is performing essential local pickup or delivery service and that a failure to grant such permit would create hardship. Every such permit may designate the route to be traversed and contain other reasonable restrictions or conditions deemed necessary. Every such permit shall be carried on the vehicle to which it refers and shall be open to inspection of any peace officer, acting pursuant to his special duties, or police officer. Such permits shall be for the duration of the restriction imposed under this section.

12. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any vehicle, device moved by human power or pedestrian.

13. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.

14. Regulate the crossing of any roadway by pedestrians.

15. Authorize angle parking on any roadway.

16. Designate any highway or any separate roadway thereof for one-way traffic.

17. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations from highways specified by such town board. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded.

18. Prohibit, restrict or limit the stopping, standing or parking of vehicles.

19. Designate safety zones.

21. Designate a portion of a slope as a path for the use of bicycles.

22. Order signs or markings to identify the portion of the highway to be used for bicycle travel.

23. Designate preferential use lanes for specified types or classes of vehicles.

24. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway.

25. Adopt such additional reasonable ordinances, orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of this state.

26. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

27. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route.

28. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from highways or set limits on hours of operation of such vehicles on particular town highways or segments of such highways. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded.

(b) Each such town board shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. Upon bridges or structures of insufficient strength to carry safely the

legal loads permissible by section three hundred eighty-five of this chapter, the town board shall cause signs to be erected to inform persons of the safe capacity.

(c) Each such town board shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and elevated structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required.

(d) Such a town board also may by ordinance, order, rule or regulation prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned or leased by such town.

(e) Any town with a population of seven hundred thousand or more may by local law or ordinance, provide for the removal and storage of vehicles parked on private property upon request of the owner of such private property, where such vehicles constitute an obstruction to the private property owner's right of ingress and egress, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. Such local law or ordinance shall be applicable only in the unincorporated areas of such town.

(f) No town shall enact any local law or ordinance to prohibit the use of sidewalks by persons with disabilities who use either a wheelchair or an electrically-driven mobility assistance device being operated or driven by such person.

§ 1660-a. Traffic regulations at parking areas and driveways of hospitals, shopping centers, office buildings and office building complexes, places of public assembly, private apartment complexes, fire stations, private condominium complexes, mobile home parks, manufactured home parks, industrial parks and industrial complexes. The town board of any town, with respect to the parking areas and driveways of a hospital, office building or office building complex or place of public assembly, or parking area of a shopping center or the parking areas and driveways of facilities owned or leased by a not-for-profit corporation or the

parking areas, driveways and private streets or roadways of a private apartment house complex, private condominium complex or cooperative apartment complex, or the parking areas, private streets, roadways or driveways of mobile home parks or manufactured home parks, or the parking areas and driveways of a fire station, or the parking areas, private streets, roadways or driveways of an industrial park or industrial complex, and pursuant to the written request of either the owner or the person in general charge of the operation and control of such area, the fire chief of the fire department or the police chief or the police commissioner of the police department serving such area, may, by local law or ordinance:

1. Order stop signs, flashing signals or yield signs erected at entrance or exit locations to any such area or designate any intersection in such area as a stop intersection or as a yield intersection and order like signs or signals at one or more entrances to such intersection.

2. Regulate traffic in any such area, including regulation by means of traffic-control signals.

2-a. Notwithstanding the provisions of section sixteen hundred sixty-two-a to the contrary, establish maximum speed limits in any such area at not less than fifteen miles per hour.

3. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations in any such area.

4. Regulate the crossing of any roadway in any such area by pedestrians.

5. Designate any separate roadway in any such area for one-way traffic.

6. Prohibit, regulate, restrict or limit the stopping, standing or parking of vehicles in specified areas of any such area.

7. Designate safety zones in any such area.

8. Provide for the removal and storage of vehicles parked or abandoned in any such area during snowstorms, floods, fires or other public emergencies, or found unattended in any such area, (1) where they constitute an obstruction to traffic or (2) where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.

9. Adopt such additional reasonable rules and regulations with respect to traffic and parking in any such area as local conditions may require for the safety and convenience of the public or of the users of any such area.

10. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

In the case of a college or university, as defined in section two of the education law, the provisions of this section shall apply only upon the written request of the governing body of such college or university.

§ 1662. Additional traffic regulations in towns in the county of Suffolk. In addition to the other powers granted by this article, the town board of any town in the county of Suffolk with respect to highways outside of villages in such town, subject to the limitations imposed by section sixteen hundred eighty-four and subject to disapproval by the department of transportation may by ordinance, order, rule or regulation limit the parking time of vehicles in congested areas.

§ 1662-a. Speed limits in certain towns. The town board of any suburban town governed pursuant to article three-A of the town law and

the town board of any other town having a population exceeding fifty thousand, with respect to highways (which term for the purposes of this section shall include private roads open to public motor vehicle traffic) in such towns outside any village, other than state highways maintained by the state on which the department of transportation shall have established higher or lower speed limits than the statutory fifty-five miles per hour speed limit as provided in section sixteen hundred twenty of this title, or on which the department of transportation shall have designated that such towns shall not establish any maximum speed limit as provided in section sixteen hundred twenty-four of this title, subject to the limitations imposed by section sixteen hundred eighty-four of this title may by local law, ordinance, order, rule or regulation establish maximum speed limits at which vehicles may proceed within such towns, within designated areas of such towns or on or along designated highways within such towns lower than the fifty-five miles per hour maximum statutory limit. No such speed limit applicable throughout such towns or within designated areas of such towns shall be established at less than thirty miles per hour, except that in the town of Hempstead speed limits may be established at not less than fifteen miles per hour on any portion of a highway in the community known as Point Lookout and on all or any portion of the following highways in the community known as Lido Beach: Ocean Boulevard, Allevard Street, Bath Street, Buxton Street, Cheltenham Street, Pinehurst Street, Harrogate Street, Matlock Street, Nantwick Street, Biarritz Street, Royat Street, Luchon Street, Woodhail Street, Leamington Street, Saratoga Street, Kensington Street, and Prescott Street; provided, however, that no such speed limit in such town may be established unless a majority of the residents of each such community file a petition with the town board of such town requesting such speed limit. No such speed limit applicable on or along designated highways within such towns shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway, and except further that in the town of Hempstead speed limits may be established at not less than fifteen miles per hour on any portion of a highway in the

communities known as Point Lookout and Lido Beach; provided, however, that no such speed limit in such town may be established unless a majority of the residents of each such community file a petition with the town board of such town requesting such speed limit.

§ 1662-b. Residential parking system in the town of Eastchester in the county of Westchester. 1. Notwithstanding the provisions of any law to the contrary, the town board of the town of Eastchester may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established: (a) within the area of the town consisting of the following roadways:

(i) Garth road;

(ii) Grayrock road;

(iii) Essex place;

(iv) Buckingham place and

(b) within the area generally bounded by the following:

(i) On the north side by the northerly corporate boundary between the town of Eastchester and the village of Scarsdale, from Scarsdale Avenue east to White Plains Road Rt. 22;

(ii) On the east side by White Plains Rd. Rt. 22, from the corporate boundary of the Village of Scarsdale south to the intersection of Hall Avenue, excluding the following streets:

Gabriel Resigno drive;

Swift avenue;

Fairway drive;

Park drive (north of Clubway);

Hilldale place;

Burnham road;

(iii) On the south side by Hall avenue west to the corporate boundary between the town of Eastchester and the village of Tuckahoe;

(iv) On the south side northerly along the corporate boundary of the village of Tuckahoe until the intersection of Benedict avenue and continuing north along the Metro-North Commuter Railroad tracks until the corporate boundary of the village of Scarsdale, at Scarsdale avenue.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of the day and days of the week during which permit requirements shall be in effect;

(d) make not less than fifteen percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the town of Eastchester unless otherwise specified in such local law.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

6. The provisions of this section shall not apply to any state highway maintained by the state.

§ 1662-c. Residential parking system in the town of Harrison. 1. Notwithstanding the provisions of any law to the contrary, the town board of the town of Harrison may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking system may only be established:

(a) Within the area of the town of Harrison generally bounded by the following:

beginning at the intersection of Harrison Avenue and Broadway; running north on Harrison Avenue to Davenport Street; thence running east on Davenport Street to Oakland Avenue; then running north along Oakland Avenue to the intersection of Macy Road; running thence north on Macy Road to the intersection of Macy Road and South Road and Sunnyside Avenue; running thence west along Sunnyside Avenue to Sunnyside Place; thence north to Emerson Place; thence along Emerson Place to Emerson Avenue north to Hyatt Avenue; thence west on Hyatt Avenue to Harrison Avenue; thence south on Harrison Avenue to Webster Avenue; thence west on Webster Avenue to Crotona Avenue; thence south on Crotona Avenue to Calvert Street; thence east on Calvert Street to Broadway; thence south on Broadway to the intersection of Harrison Avenue, the place of beginning.

(b) Within the area of the town of Harrison generally bounded by the following: beginning at the intersection of Harrison Boulevard and Veterans Memorial Drive; thence running east on Harrison Boulevard to Pearl Avenue; thence running south on Pearl Avenue to Harrison Street; thence running west on Harrison Street to Willow Street; thence running south on Willow Street to Elmwood Avenue; thence running east on Elmwood Avenue to Underhill Avenue; thence running south on Underhill Avenue to Locust Avenue; thence running east on Locust Avenue to Main Place; thence running north on Main Place to Parkview Avenue; thence running west on Parkview Avenue to White Plains Avenue; thence running north on White Plains Avenue to High Street; thence running east on High Street to Kingston Avenue; thence running north on Kingston Avenue to Main

Street; thence running west on Main Street to White Plains Avenue; thence running north on White Plains Avenue to Taylor Avenue; thence running west on Taylor Avenue to Gainsborg Avenue; thence running north on Gainsborg Avenue to Harrison Street; thence running east on Harrison Street to Woodside Avenue; thence running north on Woodside Avenue to Jefferson Street; thence running west on Jefferson Street to Park Avenue; thence running north on Park Avenue to Washington Street; thence running west on Washington Street to Lakeview Avenue; thence running south on Lakeview Avenue to Jefferson Street; thence running west on Jefferson Street to Gainsborg Avenue; thence running north on Gainsborg Avenue to Washington Street; thence running west on Washington Street to Lake Street; thence running south on Lake Street to Veterans Memorial Drive; thence running south on Veterans Memorial Drive to its intersection with Harrison Boulevard, the place of beginning.

(c) Within the area of the town of Harrison consisting of the following roadways:

(i) Ann Street from Pearl Avenue to the dead end;

(ii) Dey Street from Ann Street to the dead end;

(iii) Edward Street from Pearl Avenue to the dead end;

(iv) Main Street from Underhill Avenue to the border with the city of White Plains;

(v) Underhill Place from Underhill Avenue to the dead end;

(vi) Park Place from Underhill Avenue to the dead end;

(vii) Locust Avenue from Main Place to the dead end;

(viii) Parkview Avenue from Main Place to the dead end;

(ix) High Street from Kingston Avenue to the dead end;

(x) Spring Lake Drive from High Street to the dead end;

(xi) Clark Place from White Plains Avenue to the dead end;

(xii) Taylor Avenue from White Plains Avenue to the dead end;

(xiii) Harrison Street from Woodside Avenue to Sherman Avenue;

(xiv) Madison Street from Woodside Avenue to Sherman Avenue;

(xv) Sherman Avenue from Madison Street to the dead end;

(xvi) Livingston Street from Woodside Avenue to the dead end;

(xvii) Woodside Avenue from Jefferson Street to the dead end;

(xviii) Park Avenue from Washington Street to the dead end;

(xix) Washington Street running east from Park Avenue to the dead end;

(xx) Lakeview Avenue from Washington Street to the dead end;

(xxi) Washington Street running west from Lakeview Avenue to the dead end;

(xxii) Gainsborg Avenue from Washington Street to the dead end; and

(xxiii) Lincoln Avenue from Washington Street to the dead end.

For the purposes of this subdivision, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description. Provided, however, that except for the reference to state highways solely for the purposes of delineating the boundaries of the area described in this subdivision, the provisions of this section shall not apply to any state highway maintained by the state.

3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such residential parking system; and

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and

(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and

(d) make not less than fifteen percent of all spaces within the permit area available to nonresidents and shall provide short term parking of not less than ninety minutes in duration in such area; and

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the town.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

§ 1662-d. Residential parking system in the town of Mamaroneck. 1. Notwithstanding the provisions of any law to the contrary, the town board of the town of Mamaroneck may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established within the area of the town consisting of the following roadways:

(a) Washington Square;

(b) North Chatsworth Avenue between Myrtle Boulevard and Edgewood Avenue;

(c) New Jefferson Street;

(d) Old Jefferson Street;

(e) Murray Avenue between Myrtle Boulevard and Leafy Lane; and

(f) Lester Place.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of day and days of the week during which permit requirements shall be in effect;

(d) make not less than fifteen percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of

the town of Mamaroneck unless otherwise specified in such local law.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

6. The provisions of this section shall not apply to any state highway maintained by the state.

§ 1662-e. Residential parking system in the town of Hempstead. 1. Notwithstanding the provisions of any law to the contrary, the town board of the town of Hempstead may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within the area in which such parking system is in effect in accordance with the provisions of this section.

2. Such residential parking permit system may only be established:

(i) within the area known as East Meadow of the town consisting of the following roadways:

(a) Roosevelt Avenue west of Prospect Avenue;

(b) Jefferson Street west of Prospect Avenue;

(c) First Street west of Prospect Avenue;

(d) Second Street West of Prospect Avenue;

(e) Third Street west of Prospect Avenue;

(f) Fourth Street west of Prospect Avenue;

(g) Clearmeadow Drive;

(h) Nottingham Road;

(i) Florence Court;

(j) Jane Court;

(k) Dofena Lane;

(l) Franklin Avenue north of 4th Street;

(m) Bailey Avenue;

(n) Franklin Avenue, north of 7th Street and south of Hempstead Turnpike;

(o) Lincoln Avenue, north of 7th Street and south of Roosevelt Avenue;

(p) 5th Street, west of Prospect Avenue;
(q) 6th Street, west of Prospect Avenue;
(r) 7th Street, west of Prospect Avenue;
(s) Pengon Circle;
(t) Lois Court;
(u) Erma Drive;
(v) Ava Drive;
(w) Dorothy Drive;
(x) Barbara Drive;
(y) Rose Drive;
(z) Bly Road;
(aa) Marion Drive; and
(bb) Conti Square Boulevard.

(ii) within the area known as Oceanside of the town which shall mean that area generally bounded by the following: All of that area beginning at the intersection of Foxhurst Road and Soper Ave; proceeding west on Foxhurst Road to Long Beach Road; thence running north on Long Beach Road to Merrick Road; thence running east on Merrick Road to Oceanside Road; thence running north on Oceanside Road to Sunrise Highway; thence running east along Sunrise Highway to Charing Cross Road; thence running south on Charing Cross Road to Merrick Road; thence running west on Merrick Road to Soper Ave; thence running south on Soper Ave to its intersection with Foxhurst Road, the place of beginning. For the purposes of this paragraph, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description; provided, however, that except for the reference to state highways solely for the purposes of delineating the boundaries of the area described in this paragraph, the provisions of this section shall not apply to any state highway maintained by the state.

(iii) within the area known as Elmont of the town consisting of the following roadways:
(a) Holland Avenue north of Murray Hill Street;
(b) Elzey Avenue north of Murray Hill Street;
(c) Claridge Avenue north of Murray Hill Street;
(d) Savoy Avenue north of Murray Hill Street;
(e) Gotham Avenue north of Murray Hill Street;
(f) Waldorf Avenue north of Murray Hill Street;

(g) Biltmore Avenue north of Murray Hill Street;
(h) Seville Street;
(i) Blackstone Street;
(j) Fieldmere Street north of 109th Avenue;
(k) Warwick Road north of 109th Avenue;
(l) Sussex Road;
(m) Sterling Road north of 109th Avenue;
(n) Locustwood Boulevard north of 109th Avenue;
(o) Heathcote Road north of 109th Avenue;
(p) Wellington Road north of 109th Avenue;
(q) Huntley Road;
(r) Oak Street;
(s) Pine Street; and
(t) 106th Avenue.

(iv) within the area known as Bellerose Terrace of the town consisting of the following roadways:

(a) Superior Road west of Colonial Road;
(b) Ontario Road from Colonial Road to 242nd Street and from 239th Street to 240th Street;
(c) 95th Avenue east of 225th Street;
(d) 225th Street;
(e) 226th Street;
(f) 238th Street;
(g) 239th Street from Superior Road to Jamaica Avenue westbound;
(h) 240th Street from Superior Road to Jamaica Avenue westbound;
(i) 241st Street from Superior Road to Jamaica Avenue westbound;
(j) 242nd Street;
(k) 243rd Street;
(l) 244th Street from Superior Road to Jamaica Avenue westbound;
(m) 245th Street from Superior Road to the Jericho Turnpike westbound;
(n) 246th Street from Superior Road to the Jericho Turnpike westbound; and
(o) Colonial Road.

3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.

4. The local law or ordinance providing for such residential parking system shall:

(a) set forth factors necessitating the enactment of such parking system;

(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;

(c) provide the times of day and days of the week during which permit requirements shall be in effect;

(d) make not less than fifteen percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;

(e) provide the schedule of fees to be paid for such permits; and

(f) provide that such fees shall be credited to the general fund of the town of Hempstead unless otherwise specified in such local law.

5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

6. The provisions of this section shall not apply to any state highway maintained by the state.

§ 1663. Special speed limits on bridges and other elevated structures. The town board of any town may determine the maximum speed which may be maintained without structural damage to bridges and elevated structures that are a part of any town highway in such town and, if, such maximum speed is lower than the maximum speed limit otherwise applicable, may by order, rule or regulation establish such lower maximum speed limit at which vehicles may proceed on any such bridge or structure.

§ 1664. Application of article. This article shall not apply with respect to state highways maintained by the state which are controlled access highways, nor to highways under the jurisdiction of the New York

state thruway authority, the office of parks and recreation, a county park commission, a parkway authority, a bridge authority, or a bridge and tunnel authority.

ARTICLE 42

REGULATION OF TRAFFIC BY LOCAL AUTHORITIES AND SCHOOL DISTRICTS

Section 1670. Regulation of traffic within municipal facilities.
1671. Access of motorcycles.

§ 1670. Regulation of traffic within municipal facilities. Any local authority or school district, with respect to driveways or parking fields accessory to any school, playground, park, municipal building, installation or facility, and under the jurisdiction of such local authority or school district for general regulatory or custodial purposes, may by ordinance, order, rule or regulation:

1. Prohibit, restrict or limit the stopping, standing or parking of vehicles.

2. Regulate the direction of traffic.

3. Establish lower maximum speed limits at which vehicles may proceed than the fifty-five miles per hour statutory maximum speed limit.

4. Adopt such additional reasonable ordinances, orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of this state.

5. Provide for the removal and storage of vehicles when: (a) parked in the parking fields or driveways during snowstorms, floods, fires or other public emergencies; or (b) found unattended in the parking fields or driveways where they constitute an obstruction to traffic; or (c) found abandoned in the parking fields or driveways, and for the payment of reasonable charges for such removal and storage by the owner or

operator of any such vehicle.

6. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

§ 1671. Access of motorcycles. No local authority may enact or enforce a law that applies only to motorcycles and the principal purpose of which is to restrict the access of motorcycles to any highway or portion of a highway under the jurisdiction of any such local authority for which state funds have been utilized for planning, design, construction or maintenance. Provided, however, that nothing contained herein shall be deemed to supersede the authority of any local authority to regulate traffic pursuant to the provisions of this title, or to regulate noise.

ARTICLE 43

TRAFFIC SAFETY BOARDS

Section 1672. Traffic safety board.
1673. Membership of board.
1674. Organization and reports by the board.
1675. Functions of the board.
1676. Executive secretary of board.
1677. County purpose and charges.

§ 1672. Traffic safety board. Any city, any town, or any county not wholly included within a city may by local law establish a traffic safety board. The borough president of any county wholly included within a city may establish a traffic safety board for such county.

§ 1673. Membership of board. (a) Such board shall be composed of not less than ten members interested in traffic safety and traffic problems

appointed by the city council, town board, borough president or board of supervisors or other governing body of the city, town, borough or county for which such board has been created.

(b) Each member shall be a resident of the city, town or county for which such board has been created and shall be a qualified elector thereof. For any county not wholly included within a city, at least one but not more than three of such members shall be a resident or residents of and be appointed from each one of the cities contained in the county, and the balance of such members shall be appointed from the county at large.

(c) The term of office of such members shall be three years, except that the members first appointed to such board shall be appointed as follows: one-third shall be appointed for a term of three years; one-third for a term of two years and the remaining members of the board for a term of one year. Upon the expiration of the term of office of any member, his or her successor shall be appointed to membership in such board for a term of three years.

(d) The members of such board shall receive no compensation for services but shall be entitled to their reasonable and necessary expenses, incurred in the performance of their duties, within any appropriation made for such purpose.

§ 1674. Organization and reports by the board. The traffic safety board shall:

1. Meet and organize within fifteen days after its members are appointed.

2. Elect annually a chairman, vice-chairman and a secretary from its members.

3. Adopt rules for the conduct of its business.

4. Within the limits of the appropriations made therefor by the city council, town board, borough president or board of supervisors or other governing body of the city, town, borough or county for which such board

has been created, authorize the employment of such personnel as may be necessary to properly perform the functions and carry out the objectives of this article.

5. Appoint an executive secretary who shall be the executive and administrative officer of the board.

6. Render annually to the city council, town board, borough president or board of supervisors or other governing body of the city, town, borough or county for which such board has been created, and from time to time as required, a verified account of all moneys received and expended by it or under its direction and an account of its proceedings and of other pertinent matters in such form and manner as may be required by such board or body.

7. Submit annually to the proper fiscal authorities of the city, town, borough or county for which such board has been created, at such time in such manner as may be required by the law applicable thereto, an estimate of the funds required to carry out the purposes of this article.

8. Submit a report of activities annually to the state and, from time to time, such other information or reports as may be required by the state pursuant to the provisions of article 16-a of the executive law.

§ 1675. Functions of the board. The board is authorized:

1. To promote and encourage street and highway traffic safety.

2. To formulate highway safety programs and coordinate efforts of interested parties and agencies engaged in traffic safety education within such city, town, borough or county.

3. To cooperate with local officials in the formulation and execution of traffic safety programs and activities.

4. To study traffic conditions on streets and highways, study and analyze reports of accidents and causes thereof, and recommend to the appropriate legislative bodies, departments or commissions, such changes in rules, orders, regulations and existing law as the board may deem advisable.

5. To conduct meetings whenever and wherever the board shall deem it advisable and to invite to such meetings parties and agencies, public and private, interested in traffic regulation, control and safety education.

6. To promote safety education for drivers and pedestrians.

7. To obtain and assemble motor vehicle accident data, and to analyze, study and consolidate such data for educational and informational purposes.

8. Coordinate and direct local activities related to the implementation of the state highway safety program, as approved by the governor or his designee.

§ 1676. Executive secretary of board. The executive secretary of the board shall:

1. Subject to the supervision and control of the board perform the functions necessary to properly and efficiently carry out the provisions and purposes of this article.

2. Be a citizen of the United States.

3. Receive such salary and expenses as the city council, town board, borough president board of supervisors or other governing body of the city, town, borough or county for which such board has been created may fix and properly account for such expenses.

4. Furnish an official undertaking in an amount and in such form and

with such sureties as shall be approved by the city council, town board, borough president or board of supervisors or other governing body of the city, town, borough or county for which such board has been created.

§ 1677. County purpose and charges. For any county not wholly included within a city, the provisions of this article and expenditures made hereunder shall be deemed a county purpose and charge.

ARTICLE 44

TRAFFIC-CONTROL DEVICES

Section 1680. Department of transportation to maintain a manual of uniform traffic-control devices.
1681. State traffic-control devices.
1682. Local traffic-control devices.
1683. Signs or markings required.
1684. State highways maintained by the state.
1685. All vehicles must stop or yield at certain railroad grade crossings where a stop or yield sign is erected.

§ 1680. Department of transportation to maintain a manual of uniform traffic-control devices. (a) The department of transportation shall maintain a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this chapter for use upon highways within this state. Such uniform system shall correlate with and so far as practicable conform to nationally accepted standards. To the extent that the National Manual on Uniform Traffic Control Devices (hereinafter referred to in this section as MUTCD), promulgated by the Federal Highway Administration pursuant to subpart F of part 655 of Title 23 of the Code of Federal Regulations and subject to a public comment period under federal law, does not conflict with the provisions of this chapter and the provisions of other laws of the state, the National MUTCD shall constitute such state manual and specifications; provided, however, such manual and specifications may be modified by the commissioner of transportation by the adoption of a

supplement or supplements as such commissioner of transportation determines warranted and in compliance with the applicable provisions of the state administrative procedure act. The manual and its specifications is adopted as the state standard for traffic control devices on any street, highway, or bicycle path open to public travel. No person shall install or maintain in any area of private property used by the public any sign, signal, marking or other device intended to regulate, warn or guide traffic unless it conforms with the state manual and specifications maintained under this section. Unless otherwise provided for by the adoption of a supplement by the commissioner of transportation, the operational practices related to emergency incident responses provided in the manual shall apply to police officers and other emergency responders responding to an emergency only in so far as such officers or emergency responders deem compliance with the manual practicable.

(b) No provision of this chapter shall be deemed to require that such manual contain authority for the future installation of any specific kind or type of traffic-control device or combination of traffic-control devices which in the judgment of the department of transportation does not conform to such nationally accepted standards.

(c) No state or local authority shall hereafter fabricate or purchase any traffic-control device that does not conform to the current manual and specifications as amended from time to time. No state or local authority shall hereafter install any traffic-control device that does not conform to the current manual and specifications as amended from time to time, except that devices that are on order or on hand and serviceable or operable may be installed and used until the phase-in compliance date specified in the MUTCD. No state or local authority shall continue to use any traffic-control device that does not conform to the current manual and specifications as amended from time to time beyond the phase-in compliance date specified in the MUTCD, except that a city having a population in excess of one million shall conform to the state manual and specifications only insofar as such local authority in its discretion deems practicable.

(d) No person, firm, association or corporation shall sell, lease, or offer for sale or hire for use in this state any traffic control device that does not conform to the current manual and specifications as

amended from time to time, or unless a certificate of approval has been issued by the commissioner of transportation pursuant to the provisions of section five hundred ninety-nine-b of the general business law. The provisions of this subdivision shall not apply to the sale, lease or offer for sale or hire to a city having a population in excess of one million.

§ 1681. State traffic-control devices. (a) The department of transportation shall order the installation, operation, maintenance and removal of such traffic-control devices, conforming to its manual and specifications, upon all state highways maintained by the state or on any highway intersecting a state highway maintained by the state on the approach to such intersection as it may deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic, and elsewhere as specifically authorized by this chapter.

(b) The department of transportation may order the erection and maintenance of suitable directional signs upon the streets of cities and villages and upon county roads and town highways outside of cities and villages within the state, to facilitate through traffic, provided consent therefor is first obtained from the local authorities of the city, village or town or the county superintendent of highways.

(c) Except as otherwise provided the cost of providing, erecting, maintaining and removing traffic-control devices ordered by the department of transportation shall be paid from any moneys available for the maintenance, repair or reconstruction of state highways upon vouchers approved by the department of transportation. However, the work of providing, erecting and removing such traffic-control devices may be performed by contract in the same manner as provided for state highways in article three of the highway law, or, by the use of department of transportation forces and equipment and all materials purchased therefor, or by a combination of such methods, and the cost of such work may be paid from such moneys available for the construction of state highways. Except as herein provided, nothing shall be paid from such moneys for providing, erecting or maintaining traffic-control signals or flashing signals used in connection with regulating traffic upon a highway under the jurisdiction of the department of transportation at

entrances to private property, and nothing shall be paid from such moneys for maintaining traffic-control signals or flashing signals used in connection with regulating traffic upon a highway under the jurisdiction of the department of transportation at entrances to schools. Upon determination by the department of transportation of the need for such a signal, the department of transportation may permit any person, firm, association, corporation or public body to provide and erect such signal in accordance with standards and specifications established by the department of transportation. The department of transportation may require that some or all of the control equipment used in the signal construction be supplied by the state to ensure equipment quality and compatibility with state practices and the cost of such furnished equipment shall be reimbursed to the state by the party receiving permission to provide and erect the signal.

All signals erected on or after the first day of April, nineteen hundred eighty-six with permission of the department of transportation and in accordance with the standards and specifications established by the department of transportation shall be maintained by the state. The party which erected such signals shall pay the state an annual fee to be determined by the commissioner of transportation. Such fees shall cover the cost of normal signal maintenance, but shall not include the cost of electrical energy or major modifications or replacements which shall remain the responsibility of the party which erected the signal. The department of transportation may, in its discretion, agree to assume the same maintenance responsibility for signals erected with the permission of the department of transportation prior to the first day of April, nineteen hundred eighty-six, if the department of transportation determines that such signal substantially meets established standards and is in a satisfactory state of repair. The party which erected such signals shall also pay the state an annual fee which shall be calculated in the same manner as fees for signals erected on or after the first day of April, nineteen hundred eighty-six.

No such traffic signal or flashing signal erected with permission of the department of transportation shall be removed except with the written consent of the department of transportation.

The department of transportation shall have the right to revoke its permission to provide, erect or maintain such a signal and shall have the right to require that the signal be removed without a hearing or necessity of showing cause.

(d) Signs posting speed limits established on county roads and town highways as provided for in subdivision one of section sixteen hundred twenty-two, and traffic-control devices posting traffic regulations on the grounds of state departments and certain state institutions as provided for in sections sixteen hundred twenty-three and sixteen hundred twenty-seven shall be provided, installed and maintained at their own expense by the county, town, state or state institution respectively. Signs posting speed limits established as provided for in subdivision two of section sixteen hundred twenty-two shall be provided, installed and maintained at its own expense by the town.

(e) Except as otherwise provided for in section sixteen hundred eighty-two no state agency, local authority or person shall place or maintain any traffic-control device upon any state highway maintained by the state except by permission of the department of transportation.

§ 1682. Local traffic-control devices. Local authorities in their respective jurisdiction shall place and maintain such traffic-control devices, conforming to the state manual and specifications, as they may deem necessary to indicate and carry out the provisions of this chapter or local traffic ordinances, orders, rules or regulations or to regulate, warn, or guide traffic, except that a city having a population in excess of one million shall conform to the state manual and specifications only insofar as such local authority in its discretion deems practicable.

§ 1683. Signs or markings required. (a) No ordinance, order, rule or regulation made by any local authority under the powers conferred by this title shall be effective until signs or markings giving notice thereof are posted, except under such conditions as may be authorized in writing by the department of transportation or as otherwise provided in

subsection (b) of this section, if the effect of such order, ordinance, rule or regulation is to:

1. Designate through highways and order stop signs, flashing signals or yield signs erected at specified entrances thereto or designated any intersection as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection.

2. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any vehicle, device moved by human power or pedestrian.

3. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.

4. Authorize angle parking on any roadway.

5. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction.

6. Designate any highway or separate roadway thereof for one-way traffic.

7. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations or trucks in excess of any designated weight from designated highway.

8. Prohibit, restrict or limit the stopping, standing or parking of vehicles.

9. Designate no-passing zones and no changing lane zones and indicate such zones in accordance with the standards, minimum warrants and sign or marking specifications established by the department of transportation.

10. Designate safety zones.

11. Establish a system of truck routes upon which all trucks, tractors and tractor-trailer combinations having a total gross weight in excess of ten thousand pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route system.

12. Prohibit, regulate or restrict the operation or the stopping, standing or parking of vehicles on any bridge or in any tunnel, or the use of any bridge or tunnel by any vehicle, device moved by human power or pedestrian.

13. Prohibit and regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks.

14. Exclude all trucks, tractors and tractor-trailer combinations in excess of any designated length from designated highways or establish a system of truck routes upon which such vehicles and combinations are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route system.

15. Establish maximum speed limits other than the fifty-five miles per hour statutory maximum speed limit, or establish minimum speed limits.

16. Regulate the crossing of any roadway by pedestrians.

17. Designate preferential use lanes for specified types or classes of vehicles.

* 18. Designate a road or portion thereof as a minimum maintenance road.

* NB Repealed December 8, 2031

(b) Such signs shall be required for orders, ordinances, rules, or regulations made by the New York state thruway authority, the office of parks and recreation, a county park commission, a parkway authority, a bridge authority, a bridge and tunnel authority or the legislative body of a city having a population in excess of one million or any board, body or official to whom the power of such local authority has been

designated only in so far as such local authorities in their discretion may deem practicable.

§ 1684. State highways maintained by the state. No local authority shall place or maintain any traffic-control device on any state highway maintained by the state, or at any location so as to prohibit, restrict or limit the movement of traffic proceeding along, entering or crossing such highway, nor shall any ordinance, rule or regulation affecting traffic or stopping, standing or parking on state highways maintained by the state be effective unless or until approval in writing has been obtained from the department of transportation, and the department of transportation may at any time rescind or modify such approval.

§ 1685. All vehicles must stop or yield at certain railroad grade crossings where a stop or yield sign is erected. The state transportation commissioner, with respect to state highways, and local authorities with respect to local streets within their jurisdiction, with the approval of the state transportation commissioner are hereby authorized to install a stop or yield sign at any highway-railroad crossings within their respective jurisdictions.

The design and place and manner of installation of such signs shall conform to the manual and specifications for a uniform system of traffic control devices adopted by the state transportation commissioner.

Whenever any such crossing is so designated and a stop or yield sign is installed, it shall be unlawful for the driver of any vehicle to fail to stop or yield within fifty feet but not less than fifteen feet from such railroad tracks before traversing such crossing. The failure to erect, or the erection of, or failure to replace or maintain such signs shall not be a basis for any action of negligence against a municipality or the state nor a basis of a defense by a railroad in an action based on negligence against a railroad.

ARTICLE 44-A

AUTHORITY OF THE NASSAU AND SUFFOLK COUNTY DISTRICT COURT AND BUFFALO CITY COURT AND ROCHESTER CITY COURT JUDICIAL HEARING OFFICERS

Section 1690. Authority of the Nassau county and Suffolk county district court judicial hearing officers and the city of Buffalo judicial hearing officers and the city of Rochester judicial hearing officers.

§ 1690. Authority of the Nassau county and Suffolk county district court judicial hearing officers and the city of Buffalo judicial hearing officers and the city of Rochester judicial hearing officers. 1. Notwithstanding any other provision of law, where the trial of a traffic or parking infraction is authorized or required to be tried before the Nassau county district court or Suffolk county district court, and such traffic and parking infraction does not constitute a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision five of section eleven hundred ninety-two, section three hundred ninety-seven-a, or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph c of subdivision two of section one hundred forty of the transportation law, or any offense that is part of the same criminal transaction, as that term is defined in subdivision two of section 40.10 of the criminal procedure law, as such a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision two of section eleven hundred ninety-two, section three hundred ninety-seven-a or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph d of subdivision two of section one hundred forty of the transportation law, the administrative judge of the county in which the trial court is located, may assign judicial hearing officers to conduct such a trial. Such judicial hearing officers shall be village court justices or retired judges either of which shall have at least two years of experience conducting trials of traffic and parking violations cases and shall be admitted to practice law in this state. Where such assignment

is made, the judicial hearing officer shall entertain the case in the same manner as a court and shall:

(a) determine all questions of law;

(b) act as the exclusive trier of all issues of fact;

(c) render a verdict;

(d) impose sentence; or

(e) dispose of the case in any manner provided by law.

1-a. Notwithstanding any other provision of law, where the trial of a traffic infraction is authorized or required to be tried before the Buffalo city court, and such traffic infraction does not constitute a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision five of section eleven hundred ninety-two, section three hundred ninety-seven-a, or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph c of subdivision two of section one hundred forty of the transportation law, or any parking, stopping, standing or pedestrian offense, or any offense that is part of the same criminal transaction, as that term is defined in subdivision two of section 40.10 of the criminal procedure law, as such a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision two of section eleven hundred ninety-two, section three hundred ninety-seven-a or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph d of subdivision two of section one hundred forty of the transportation law, or any parking, stopping, standing or pedestrian offense, the administrative judge of the eighth judicial district may assign judicial hearing officers to conduct such a trial. Such judicial hearing officers shall: (i) be residents of the city of Buffalo; and (ii) be village or town court justices, city court judges or retired judges or justices all of which shall have at least two years of experience conducting trials of traffic violations cases; and (iii) be admitted to practice law in this state; and (iv) be selected from a list of recommendations of the mayor of the city of Buffalo provided that the mayor shall give at least three recommendations for each judicial

hearing officer assignment. Where such assignment is made, the judicial hearing officer shall entertain the case in the same manner as a court and shall:

(a) determine all questions of law;

(b) act as the exclusive trier of all issues of fact;

(c) render a verdict;

(d) impose sentence; or

(e) dispose of the case in any manner provided by law.

1-b. Notwithstanding any other provision of law, where the trial of a traffic infraction is authorized or required to be tried before the Rochester city court, and such traffic infraction does not constitute a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision five of section eleven hundred ninety-two, section three hundred ninety-seven-a, or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph c of subdivision two of section one hundred forty of the transportation law, or any parking, stopping, standing or pedestrian offense, or any offense that is part of the same criminal transaction, as that term is defined in subdivision two of section 40.10 of the criminal procedure law, as such a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision two of section eleven hundred ninety-two, section three hundred ninety-seven-a or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph d of subdivision two of section one hundred forty of the transportation law, or any parking, stopping, standing or pedestrian offense, the administrative judge of the seventh judicial district may assign judicial hearing officers to conduct such a trial. Such judicial hearing officers shall: (i) be residents of the county of Monroe; and (ii) be village or town court justices, city court judges or retired judges or justices or a current or former administrative law judge, referee or administrative hearing officer with at least one year experience conducting trials or hearings for any governmental agency of the state of New York or a political subdivision of the state, or a

licensed attorney who has at least five years of relevant experience appearing in trials or hearings before courts or governmental agencies within the state; and (iii) be admitted to practice law in this state; and (iv) be selected from a list of recommendations of the mayor of the city of Rochester provided that the mayor shall give at least three recommendations for each judicial hearing officer assignment. Where such assignment is made, the judicial hearing officer shall entertain the case in the same manner as a court and shall:

(a) determine all questions of law;

(b) act as the exclusive trier of all issues of fact;

(c) render a verdict;

(d) impose sentence; or

(e) dispose of the case in any manner provided by law.

2. In the discharge of this responsibility, the judicial hearing officer shall have the same powers as a judge of the court in which the proceeding is pending. The rules of evidence and reasonable doubt burden of proof shall be applicable at a trial conducted by a judicial hearing officer.

3. Any action taken by a judicial hearing officer in the conduct of a trial or other disposition thereof shall be deemed the action of the court in which the proceeding is pending.

4. Judicial hearing officers are prohibited from appearing in any capacity other than as a judicial hearing officer in any part of the Nassau county or Suffolk county district court on any matter relating to traffic or parking violations and are further prohibited from appearing in any capacity other than as a judicial hearing officer in any other court or administrative tribunal on any matter relating to traffic or parking violations.

4-a. Judicial hearing officers are prohibited from appearing in any capacity other than as a judicial hearing officer in any part of Buffalo city court on any matter relating to traffic violations and are further prohibited from appearing in any capacity other than as a judicial hearing officer in any other court or administrative tribunal on any

matter relating to traffic violations.

4-b. Judicial hearing officers are prohibited from appearing in any capacity other than as a judicial hearing officer in any part of Rochester city court on any matter relating to traffic violations and are further prohibited from appearing in any capacity other than as a judicial hearing officer in any other court or administrative tribunal on any matter relating to traffic violations.

ARTICLE 44-B
TRANSPORTATION NETWORK COMPANY SERVICES

Section 1691. Definitions.
1692. General provisions.
1693. Financial responsibility of transportation network companies.
1694. Disclosures.
1695. Insurance provisions.
1696. Driver and vehicle requirements.
1697. Maintenance of records.
1698. Audit procedures; confidentiality of records.
1699. Criminal history background check of transportation network company drivers.
1700. Controlling authority.

§ 1691. Definitions. As used in this article: 1. "Transportation network company vehicle" or "TNC vehicle" means a vehicle that is:

(a) used by a transportation network company driver to provide a TNC prearranged trip originating within the state of New York; and

(b) owned, leased or otherwise authorized for use by the transportation network company driver;

(c) such term shall not include:

(i) a taxicab, as defined in section one hundred forty-eight-a of this chapter and section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law;

(ii) a livery vehicle, as defined in section one hundred twenty-one-e

of this chapter, or as otherwise defined in local law;

(iii) a black car, limousine, or luxury limousine, as defined in section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law;

(iv) a for-hire vehicle, as defined in section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law;

(v) a bus, as defined in section one hundred four of this chapter;

(vi) any motor vehicle weighing more than six thousand five hundred pounds unloaded;

(vii) any motor vehicle having a seating capacity of more than seven passengers; and

(viii) any motor vehicle subject to section three hundred seventy of this chapter.

2. "Digital network" means any system or service offered or utilized by a transportation network company that enables TNC prearranged trips with transportation network company drivers.

3. "Transportation network company" or "TNC" means a person, corporation, partnership, sole proprietorship, or other entity that is licensed pursuant to this article and is operating in New York state exclusively using a digital network to connect transportation network company passengers to transportation network company drivers who provide TNC prearranged trips.

4. "Transportation network company driver" or "TNC driver" means an individual who:

(a) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(b) Uses a TNC vehicle to offer or provide a TNC prearranged trip to transportation network company passengers upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

5. "Transportation network company passenger" or "passenger" means a

person or persons who use a transportation network company's digital network to connect with a transportation network company driver who provides TNC prearranged trips to the passenger in the TNC vehicle between points chosen by the passenger.

6. (a) "TNC prearranged trip" or "trip" means the provision of transportation by a transportation network company driver to a passenger provided through the use of a TNC's digital network:

(i) beginning when a transportation network company driver accepts a passenger's request for a trip through a digital network controlled by a transportation network company;

(ii) continuing while the transportation network company driver transports the requesting passenger in a TNC vehicle; and

(iii) ending when the last requesting passenger departs from the TNC vehicle.

(b) The term "TNC prearranged trip" does not include transportation provided through any of the following:

(i) shared expense carpool or vanpool arrangements, including those as defined in section one hundred fifty-eight-b of this chapter; and

(ii) use of a taxicab, livery, luxury limousine, or other for-hire vehicle, as defined in this chapter, section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law.

7. "Group policy" means an insurance policy issued pursuant to section three thousand four hundred fifty-five of the insurance law.

§ 1692. General provisions. 1. A TNC or a TNC driver shall not be deemed a common carrier, as defined in subdivision six of section two of the transportation law; a contract carrier of passengers by motor vehicle, as defined in subdivision nine of section two of the transportation law; or a motor carrier, as defined in subdivision seventeen of section two of the transportation law. Neither a TNC nor a TNC driver shall be deemed to provide taxicab or for-hire vehicle service while operating as a TNC or TNC driver pursuant to this article. Moreover, a TNC driver shall not be required to register the TNC vehicle

such TNC driver uses for TNC prearranged trips as a commercial or for-hire vehicle, as set forth in article fourteen of this chapter.

2. (a) A TNC may not operate in the state of New York without first having obtained a license issued by the department in a form and manner and with applicable fees as provided for by regulations promulgated by the commissioner. As a condition of obtaining a license, a TNC shall be required to submit to the department proof of a group policy issued pursuant to section three thousand four hundred fifty-five of the insurance law. Failure of a TNC to comply with the provisions of this article may result in applicable penalties, which may include, but are not limited to fines, suspension or revocation of license or a combination thereof as otherwise provided by law. No license shall be suspended or revoked except upon notice to the TNC and after an opportunity to be heard.

(b) Failure of a TNC to obtain a license before operation, pursuant to this subdivision shall constitute a misdemeanor.

3. A TNC must maintain an agent for service of process in the state of New York.

4. On behalf of a TNC driver, a TNC may charge a fare for the services rendered to passengers; provided that, if a fare is collected from a passenger, the TNC shall disclose to such passenger the fare within the TNC's digital network. The TNC shall also provide passengers, before such passengers enter a TNC vehicle, the actual fare or an estimated fare for such TNC prearranged trip through the TNC's digital network. The TNC shall also post the fair calculation method on its website.

5. A TNC's digital network shall display a picture of the TNC driver, and provide the make, model, color and license plate number of the TNC vehicle utilized for providing the TNC prearranged trip before the passenger enters the TNC vehicle.

6. Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the passenger on behalf of the TNC driver that lists:

(a) The origin and destination of the trip;

(b) The total time and distance of the trip;

(c) An itemization of the total fare paid, if any;

(d) A separate statement of the applicable assessment fee and surcharge; and

(e) The TNC name and operating license number.

7. A TNC driver shall not solicit or accept street hails.

8. A TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments for the fares charged to passengers for TNC prearranged trips and notify TNC drivers of such policy. TNC drivers shall not solicit or accept cash payments from passengers.

9. A TNC shall prevent a TNC driver from accepting TNC prearranged trips within a city of a population of one million or more and any county or city that has enacted a local law or ordinance pursuant to section one hundred eighty-two of the general municipal law and has not repealed such local law or ordinance, except where the acceptance of a prearranged trip is authorized pursuant to an existing reciprocity agreement.

10. Nothing in this article shall apply to cities with a population of one million or more.

§ 1693. Financial responsibility of transportation network companies. 1. A TNC driver, or TNC on the TNC driver's behalf through a group policy, shall maintain insurance that recognizes that the driver is a TNC driver and provides financial responsibility coverage:

(a) while the TNC driver is logged onto the TNC's digital network; and

(b) while the TNC driver is engaged in a TNC prearranged trip.

2. (a) The following automobile financial responsibility insurance requirements shall apply while a TNC driver is logged onto the TNC's digital network but is not engaged in a TNC prearranged trip: insurance against loss from the liability imposed by law for damages, including

damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property arising out of the ownership, maintenance, use or operation of a personal vehicle or vehicles within this state, or elsewhere in the United States in North America or Canada, subject to a limit, exclusive of interest and costs, with respect to each such occurrence, of at least seventy-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of at least one hundred fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and to a limit of at least twenty-five thousand dollars because of injury to or destruction of property of others in any one accident, provided however, that such policy need not be for a period coterminous with the registration period of the personal vehicle insured, and coverage in satisfaction of the financial responsibility requirements set forth in section three thousand four hundred twenty of the insurance law, article fifty-one of the insurance law, and such other requirements or regulations that may apply for the purposes of satisfying the financial responsibility requirements with respect to the use or operation of a motor vehicle.

(b) The coverage requirements of paragraph (a) of this subdivision may be satisfied by any of the following:

(i) insurance maintained by the TNC driver; or

(ii) insurance provided through a group policy maintained by the TNC; or

(iii) a combination of subparagraphs (i) and (ii) of this paragraph.

3. (a) The following automobile financial responsibility insurance requirements shall apply while a TNC driver is engaged in a TNC prearranged trip: insurance against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of a specific personal vehicle or vehicles within this state, or elsewhere in the United States in North America or Canada, subject to a limit, exclusive of interest and costs, with respect to each such occurrence, of at least one million two hundred fifty thousand

dollars because of bodily injury to or death of any person, and injury to or destruction of property provided however, that such policy need not be for a period coterminous with the registration period of the personal vehicle insured, and coverage in satisfaction of the financial responsibility requirements set forth in section three thousand four hundred twenty of the insurance law, article fifty-one of the insurance law; coverage provided in accordance with subsection (f) of section three thousand four hundred twenty of the insurance law, providing supplementary uninsured/underinsured motorist insurance for bodily injury, in the amount of one million two hundred fifty thousand dollars because of bodily injury to or death of any person in any one accident; and such other requirements or regulations that may apply for the purposes of satisfying the financial responsibility requirements with respect to the use or operation of a motor vehicle.

(b) The coverage requirements of paragraph (a) of this subdivision may be satisfied by any of the following:

(i) insurance maintained by the TNC driver; or

(ii) insurance provided through a group policy maintained by the TNC; or

(iii) a combination of subparagraphs (i) and (ii) of this paragraph.

4. A TNC shall, upon entering into a contractual agreement with a TNC driver, provide notice to the TNC driver that he or she may need additional insurance coverage including motor vehicle physical damage coverage as described in paragraph nineteen of subsection (a) of section one thousand one hundred thirteen of the insurance law if the TNC vehicle being used by the TNC driver is subject to a lease or loan. A TNC shall also post this notice on its website in a prominent place, and provide contact information for the department of financial services.

5. If insurance maintained by a TNC driver pursuant to subdivisions two and three of this section has lapsed or does not provide the required coverage, then the group policy maintained by a TNC shall provide the coverage required by this section beginning with the first dollar of a claim and have the duty to defend such claim.

6. Coverage under a group policy maintained by the TNC shall not be

dependent on the denial of a claim by the insurer that issued the insurance policy used to register the TNC vehicle, nor shall that insurer be required to first deny a claim.

7. (a) Except as provided in paragraph (b) of this subdivision, a group policy maintained by a TNC pursuant to subparagraph (ii) of paragraph (b) of subdivisions two or three of this section shall be placed with an insurer authorized to write insurance in this state.

(b) If a TNC is unable to purchase a group policy pursuant to subparagraph (ii) of paragraph (b) of subdivisions two or three of this section because such insurance is unavailable from authorized insurers the TNC may acquire such group insurance with an excess line broker pursuant to section two thousand one hundred eighteen of the insurance law.

(c) The obligation to determine whether the insurance required by this section is unavailable from insurers authorized to write insurance in this state shall be made prior to the initial placement and at each renewal of a policy.

8. A TNC driver who, while operating a TNC vehicle was logged on to the TNC's digital network but not engaged in a TNC prearranged trip or was engaged in a TNC prearranged trip, and has in effect the insurance required pursuant to this article, shall not be deemed to be in violation of article six of this chapter during such time that he or she was logged on to the TNC's digital network but not engaged in a TNC prearranged trip or was engaged in a TNC prearranged trip.

9. A TNC driver shall carry proof of coverage satisfying subdivisions two and three of this section with him or her at all times during his or her use or operation of a TNC vehicle in connection with a TNC's digital network. Such proof of coverage shall be in such form as the commissioner shall prescribe, which may be in the form of an insurance identification card as defined in section three hundred eleven of this chapter. Any insurance identification card issued pursuant to the provisions of this article shall be in addition to the insurance identification card required pursuant to article six of this chapter, and nothing contained in this article shall be deemed to supersede the

requirements of such article six. Whenever the production of an insurance identification card is required by law, a TNC driver shall (a) produce the insurance identification card issued pursuant to article six of this chapter and, (b) if such driver (i) was logged onto the TNC's digital network but not engaged in a TNC prearranged trip or (ii) was engaged in a TNC prearranged trip, such driver shall also produce the insurance identification card required pursuant to this article.

10. The superintendent of financial services is authorized to issue such rules and regulations necessary to implement this section.

11. The superintendent of financial services may promulgate regulations to address insurance coverage under this section and section sixteen hundred ninety-five of this article when a TNC driver uses multiple digital networks simultaneously.

12. Nothing in this section shall impose financial responsibility requirements upon any entities operating as vehicles for hire in a city with a population of one million or more.

13. An insurer shall not include a mandatory arbitration clause in a policy issued pursuant to this section. Nothing in this section supercedes the mandatory arbitration requirements contained in section five thousand one hundred five of the insurance law.

§ 1694. Disclosures. A TNC shall disclose in writing to TNC drivers the following before they are allowed to accept a request for a TNC prearranged trip on the TNC's digital network:

1. The insurance coverage, including the types of coverage and the limits for each coverage, that the TNC provides while the TNC driver uses a TNC vehicle in connection with a TNC's digital network;

2. That the TNC driver's own automobile insurance policy might not provide any coverage while the TNC driver is logged on to the TNC's digital network or is engaged in a TNC prearranged trip, depending on

its terms; and

3. That, if a TNC vehicle has a lien against it, then the continued use of such TNC vehicle by its TNC driver without physical damage coverage may violate the terms of the contract with the lienholder.

§ 1695. Insurance provisions. 1. Insurers that write motor vehicle insurance in this state may, in the insurance policy, exclude any and all coverage afforded under the policy issued to an owner or operator of a TNC vehicle for any loss or injury that occurs while a TNC driver is logged on to a TNC's digital network or while a driver provides a TNC prearranged trip, including:

(a) liability coverage for bodily injury and property damage;

(b) coverage provided pursuant to article fifty-one of the insurance law;

(c) uninsured motorist coverage;

(d) supplementary uninsured/underinsured motorist coverage; and

(e) motor vehicle physical damage coverage as described in paragraph nineteen of subsection (a) of section one thousand one hundred thirteen of the insurance law.

2. Such exclusions shall apply notwithstanding any requirement under the law to the contrary. Nothing in this section implies or requires that an owner's policy of liability insurance or other motor vehicle insurance policy provide coverage while the TNC driver is logged on to the TNC's digital network, while the TNC driver is engaged in a TNC prearranged trip or while the TNC driver otherwise uses or operates a TNC vehicle to transport passengers for compensation.

3. Nothing shall be deemed to preclude an insurer from providing primary, excess, or umbrella coverage for the TNC driver's TNC vehicle, if it chose to do so by contract or endorsement.

4. Motor vehicle insurers that exclude the coverage described in this article shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this article shall be deemed to

invalidate or limit an exclusion contained in a policy including any policy in use or approved for use in this state prior to the effective date of this section.

5. A motor vehicle insurer that defends or indemnifies a claim against a TNC driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide motor vehicle insurance to the same driver in satisfaction of the coverage requirements of the provisions of this article.

6. In a claims coverage investigation, a TNC and any insurer providing coverage under this article shall, within fifteen days after a claim has been filed, facilitate the exchange of relevant information with directly involved parties and any insurer of the TNC driver if applicable, including the precise times that a TNC driver logged on and off of the TNC's digital network in the twelve hour period immediately preceding and in the twelve hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any motor vehicle insurance maintained under this article.

7. The superintendent of financial services may promulgate such rules and regulations that the superintendent deems necessary to facilitate the sharing of information between insurers, when a motor vehicle accident occurs and at least one of the insurers is providing financial responsibility coverage to a TNC vehicle pursuant to this article.

8. The commissioner shall provide relevant insurance coverage information required by this article to the following persons upon request:

(a) a person to whom an accident report pertains or who is named in such report, or his or her authorized representative; and

(b) any other person or his or her authorized representative who has demonstrated to the satisfaction of the commissioner that such person is or may be a party to a civil action arising out of the conduct described in such accident report.

§ 1696. Driver and vehicle requirements. 1. (a) At all times, an individual acting as a TNC driver shall be permitted by the TNC as follows:

(i) The individual shall submit an application to the TNC, which shall include information regarding his or her address, age, driver's license, motor vehicle registration, automobile liability insurance, and other information required by the TNC;

(ii) The TNC shall conduct, or have a third party conduct, a criminal background check for each applicant in accordance with section sixteen hundred ninety-nine of this article and that shall review whether the applicant:

(A) is listed on the New York state sex offender registry pursuant to article six-C of the correction law; and

(B) is a match in the United States Department of Justice National Sex Offender Public Website;

(iii) The TNC shall obtain and review, or have a third party obtain and review, a driving history research report for such individual.

(b) The TNC shall not permit an applicant where such applicant:

(i) fails to meet all qualifications pursuant to section sixteen hundred ninety-nine of this article;

(ii) is a match in the United States Department of Justice National Sex Offender Public Website;

(iii) is listed on the sex offender registry pursuant to article six-C of the correction law;

(iv) does not possess a valid New York driver's license;

(v) does not possess proof of registration for the motor vehicles used to provide TNC prearranged trips;

(vi) does not possess proof of automobile liability insurance for the motor vehicles used to provide TNC prearranged trips as a TNC vehicle; or

(vii) is not at least nineteen years of age.

(c) Upon review of all information received and retained by the TNC and upon verifying that the individual is not disqualified pursuant to this section from receiving a TNC driver permit, a TNC may issue a TNC driver permit to the applicant. The TNC shall review all information received relating to such applicant and hold such information for six

years along with a certification that such applicant qualifies to receive a TNC driver permit.

(d) (i) A TNC that issues a TNC driver's permit pursuant to this section shall participate in the New York License Event Notification Service (LENS) established by the department to obtain timely notice when any of the following violations are added to a TNC driver's driving record:

(A) unlawfully fleeing a police officer in a motor vehicle in violation of sections 270.25, 270.30 or 270.35 of the penal law;

(B) reckless driving in violation of section one thousand two hundred twelve of this chapter;

(C) operating while license or privilege is suspended or revoked in violation of section five hundred eleven of this chapter, excluding subdivision seven of such section;

(D) operating a motor vehicle under the influence of alcohol or drugs in violation of section one thousand one hundred ninety-two of this chapter; and

(E) leaving the scene of an incident without reporting in violation of subdivision two of section six hundred of this chapter.

(ii) The department may promulgate regulations authorizing additional LENS notifications as the commissioner deems necessary to protect public health and safety.

(iii) Upon such notice, a TNC may suspend or revoke any TNC driver's permit and revoke access to the TNC digital network, only after considering the number or severity of any such violations, including such factors as required by this article for obtaining a TNC permit, when necessary to protect public health and safety. If, however, such a notice provides that an applicant has been convicted of a disqualifying crime pursuant to section sixteen hundred ninety-nine of this article such TNC driver's access to the TNC digital network and such TNC driver's permit shall both immediately be suspended or revoked. Upon such revocation or suspension pursuant to this section, the TNC shall provide the driver with a copy of the LENS record used to make such determination.

(e) No person shall operate a TNC vehicle or operate as a TNC driver unless such person holds a valid TNC driver permit issued pursuant to this section. A violation of this paragraph shall be a traffic

infraction punishable by a fine of not less than seventy-five nor more than three hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment.

(f) The names and identifying information of TNC drivers provided pursuant to paragraph (d) of this subdivision shall be considered information, which if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of article six of the public officers law.

2. A TNC shall implement a zero-tolerance policy regarding a TNC driver's activities while accessing the TNC's digital network. Such policy shall address the issue of operating a vehicle under the influence of alcohol or drugs while a TNC driver is providing TNC prearranged trips or is logged onto the TNC's digital network but is not providing TNC prearranged trips, and the TNC shall provide notice of this policy on its digital network, as well as procedures to report a complaint about a TNC driver with whom a TNC prearranged trip was commenced and whom the passenger reasonably suspects was operating a vehicle under the influence of alcohol or drugs during the course of the TNC prearranged trip.

3. (a) A TNC shall adopt a policy of non-discrimination on the basis of destination, race, color, national origin, religious belief, practice or affiliation, sex, disability, age, sexual orientation, or genetic predisposition with respect to passengers and potential passengers and notify TNC drivers of such policy.

(b) TNC drivers shall comply with all applicable laws regarding non-discrimination against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief, practice or affiliation, sex, disability, age, sexual orientation, or genetic predisposition with respect to passengers and potential passengers and notify TNC drivers of such policy.

(c) TNC drivers shall comply with all applicable laws relating to accommodation of service animals.

(d) A TNC shall implement and maintain a policy and an oversight process of providing accessibility to passengers or potential passengers with a disability and accommodation of service animals as such term is

defined in section one hundred twenty-three-b of the agriculture and markets law and shall to the extent practicable adopt findings established by the New York state TNC accessibility task force adopted pursuant to section twenty-one of the chapter of the laws of two thousand seventeen that added this section. A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(e) The New York state division of human rights shall be authorized to accept, review and investigate any potential or actual violations of this subdivision in a form and manner consistent with authority under article fifteen of the executive law and shall notify the department, upon a finding of a violation, for purposes of permit suspension.

4. A TNC shall require that any or all motor vehicles that a TNC driver will use as a TNC vehicle to provide TNC prearranged trips meets applicable New York state vehicle safety and emissions requirements, as set forth in section three hundred one of this chapter, or the vehicle safety and emissions requirements of the state in which the vehicle is registered.

5. The department shall promulgate regulations to ensure that each TNC vehicle is easily identified as such and that the TNC for which the TNC driver is providing the TNC service or TNC prearranged trip is distinguishable. Such marking shall be in such form as is approved by the commissioner, and shall be attached, affixed or displayed in such manner as he or she may prescribe by regulation.

§ 1697. Maintenance of records. A TNC shall maintain the following records:

1. individual trip records for at least six years from the date each trip was provided; and

2. individual records of TNC drivers at least until the six year anniversary of the date on which a TNC driver's relationship with the TNC has ended.

§ 1698. Audit procedures; confidentiality of records. 1. For the purpose of verifying that a TNC is in compliance with the licensing requirements of the department, the department shall reserve the right to audit a sample of records that the TNC is required to maintain, upon request by the department that shall be fulfilled in no fewer than ten business days by the TNC. The sample shall be chosen randomly by the department in a manner agreeable to both parties. The audit shall take place at a mutually agreed location in New York state. Any record furnished to the department may exclude information that would tend to identify specific drivers or passengers.

2. The names and identifying information of TNC drivers that are received pursuant to this section shall be considered information which, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of article six of the public officers law.

3. The department shall establish regulations for the filing of complaints against any TNC driver or TNC pursuant to this section.

§ 1699. Criminal history background check of transportation network company drivers. 1. A TNC shall conduct, or have a third party conduct, a criminal history background check using a lawful method approved by the department pursuant to paragraph (a) of subdivision two of this section for persons applying to drive for such company.

2. (a) The method used to conduct a criminal history background check pursuant to subdivision one of this section shall be established in regulations adopted by the department within thirty days of the effective date of this subdivision. To ensure safety of the passengers and the public such regulations shall establish the method used to conduct such background checks and any processes and operations necessary to complete such checks. The review of criminal history information and determinations about whether or not an applicant is issued a TNC driver permit shall be controlled by paragraphs (b), (c)

and (d) of this subdivision.

(b) An applicant shall be disqualified to receive a TNC driver permit where he or she:

(i) stands convicted in the last three years of: unlawful fleeing a police officer in a motor vehicle in violation of sections 270.35, 270.30 or 270.25 of the penal law, reckless driving in violation of section twelve hundred twelve of this chapter, operating while license or privilege is suspended or revoked in violation of section five hundred eleven of this chapter, excluding subdivision seven of such section, a misdemeanor offense of operating a motor vehicle while under the influence of alcohol or drugs in violation of section eleven hundred ninety-two of this chapter, or leaving the scene of an accident in violation of subdivision two of section six hundred of this chapter. In calculating the three year period under this subparagraph, any period of time during which the person was incarcerated after the commission of such offense shall be excluded and such three year period shall be extended by a period or periods equal to the time spent incarcerated;

(ii) stands convicted in the last seven years of: a felony offense defined in article one hundred twenty-five of the penal law, a violent felony offense defined in section 70.02 of the penal law, a class A felony offense defined in the penal law, a felony offense defined in section eleven hundred ninety-two of this chapter, or any conviction of an offense in any other jurisdiction that has all the essential elements of an offense listed in this subparagraph. In calculating the seven year period under this subparagraph, any period of time during which the person was incarcerated after the commission of such offense shall be excluded and such seven year period shall be extended by a period or periods equal to the time spent incarcerated; or

(iii) is required to register as a sex offender pursuant to article six-C of the correction law.

(c) A criminal history record that contains criminal conviction information that does not disqualify an applicant pursuant to subparagraphs (i) or (ii) of paragraph (b) of this subdivision, shall be reviewed and considered according to the provisions of article twenty-three-A of the correction law and subdivisions fifteen and sixteen of section two hundred ninety-six of the executive law in determining whether or not the applicant should be issued a TNC driver's

permit.

(d) Upon receipt of criminal conviction information pursuant to this section for any applicant, such applicant shall promptly be provided with a copy of such information as well as a copy of article twenty-three-A of the correction law. Such applicant shall also be informed of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to the regulations and procedures established by the division of criminal justice services.

(e) The department shall promulgate regulations for the purpose of implementing the provisions of this subdivision.

3. A TNC shall update the criminal history background check yearly during the period in which the person is authorized to drive for the company, however, the commissioner may require, pursuant to regulation, more frequent criminal history background checks.

4. To ensure safety of the passengers and the public a TNC shall be responsible for all fees associated with the criminal history check pursuant to subdivision one of this section.

5. Any TNC found to have violated any requirements established pursuant to this section, shall on the first instance, be subject to a civil penalty of not more than ten thousand dollars. For any subsequent instance within the period of two years from any initial violation, such TNC shall be subject to a civil penalty of not more than fifty thousand dollars, or the suspension or revocation of its TNC license or both.

§ 1700. Controlling authority. 1. Notwithstanding any other provision of law, the regulation of TNCs and TNC drivers is governed exclusively by the provisions of the chapter of the laws of two thousand seventeen which added this section and any rules promulgated by the state through its agencies consistent with such chapter. No county, town, city or village may enact a tax or any fee or other surcharge on a TNC, a TNC driver, or a TNC vehicle used by a TNC driver or require a license, permit, or additional insurance coverage or any other limitations or

restrictions, except for a prohibition on pick-up pursuant to section one hundred eighty-two of the general municipal law, for a TNC, a TNC driver, or a TNC vehicle used by a TNC driver, where such fee, surcharge, unauthorized tax, license, permit, insurance coverage, limitation or restriction, relates to facilitating or providing TNC prearranged trips, or subjects a TNC, a TNC driver, or a TNC vehicle used by a TNC driver to operational, or other requirements.

2. Nothing in this article shall authorize any TNC driver to pick-up a passenger for purposes of a TNC prearranged trip in a city with a population of one million or more or where a county or city has opted to prohibit the same pursuant to authority consistent with section one hundred eighty-two of the general municipal law, except where the acceptance of a prearranged trip is authorized pursuant to an existing reciprocity agreement.

3. Nothing in this article shall: (a) limit the ability of a county, town, city or village to adopt or amend generally applicable limitations or restrictions relating to local traffic or parking control as authorized by state law; or (b) preempt any reciprocity agreements, including agreements entered into pursuant to section four hundred ninety-eight of this chapter, between a county, town, city or village that relates to services regulated by section one hundred eighty-one of the general municipal law.

4. Nothing in this article shall be construed to limit the ability of a municipality or other governing authority that owns or operates an airport located outside of a city with a population of one million or more from adopting regulations and entering into contracts or other agreements relating to the duties and responsibilities on airport property of a transportation network company, which may include the imposition and payment of reasonable fees, provided that any such contracts, agreements, or regulations shall not impose any license or other operational requirement on a transportation network company driver or transportation network company vehicle that is inconsistent with or additional to the requirements of this article.

ARTICLE 44-C

CENTRAL BUSINESS DISTRICT TOLLING PROGRAM

Section 1701. Legislative findings and declaration.
1702. Short title.
1703. Definitions.
1704. Establishment of central business district tolling program.
1704-a. Central business district toll.
1705. Disposition of revenue and penalties.
1706. Reporting.

§ 1701. Legislative findings and declaration. The ongoing failures of the tracks, signals, switches, electrical power, and other transportation infrastructure throughout the subway system in the city of New York continue to have a significant deleterious impact on the health, safety, and livelihood of commuters, tourists, resident New Yorkers, as well as business and commerce in the metropolitan commuter transportation district, which is the recognized economic engine of the state of New York, and thereby have adversely affected the economy of the state of New York. Temporary actions have been taken to address the safety of subway, bus and commuter rail riders in the short term including an emergency declaration and increased capital funding for the subways in the most recently adopted state budget. The legislature, however, determines that a long-term and sustainable solution is necessary in order to ensure stable and reliable funding to repair and revitalize this significantly important mass transit asset.

The legislature further finds and declares that traffic congestion in the city of New York ranks second worst among cities in the United States and third worst among cities in the world, and results in significant cost to the New York metropolitan area economy and in turn the state's economy at estimates exceeding one hundred billion dollars over the next five years. Travel speeds in the city of New York's central business district have dropped more than seventeen percent in two thousand sixteen to an average of 6.8 miles per hour and in Midtown

Manhattan, the most congested area of the city-the area from fifty-ninth street to thirty-fifth street and from ninth avenue to the east river-the average vehicular speed is 4.7 miles per hour. Congestion in these areas is crippling and impacts the everyday lives of residents, commuters, taxi and for-hire vehicle traffic, bus transit and emergency services, and is a significant contributor to decreased air quality.

These issues have been recognized by both the Fix NYC Advisory Panel and the Metropolitan Transportation Sustainability Advisory Workgroup as significant impediments to everyday New Yorkers.

In order to ensure a safe and efficient mass transit system within the city of New York and to protect the public health and safety of New York's residents, a program to establish tolls for vehicles entering or remaining in the most congested area of the state is found to be necessary and to be a matter of substantial state concern.

§ 1702. Short title. This act shall be known as and may be cited as "the traffic mobility act".

§ 1703. Definitions. For the purposes of this article, unless the context otherwise requires:

1. "City" means the city of New York.

2. "Central business district toll" means a toll charged for entry into or remaining in the central business district as described in section seventeen hundred four of this article.

3. "Central business district tolling program" means the program for charging tolls for vehicles that enter or remain in the central business district and includes the central business district tolling infrastructure, the central business district tolling collection system and the central business district tolling customer service center.

4. "Central business district" means the area described in section seventeen hundred four of this article for which tolls shall be charged for a vehicle's entry into or remaining in such district.

5. "Central business district tolling infrastructure" means the devices and structures including but not limited to gantries, clear signage delineating entry into the central business district and toll amounts, and power and communication lines that the Triborough bridge and tunnel authority will plan, design, construct, and use as part of the central business district tolling program. Such infrastructure shall be planned, designed, installed and constructed pursuant to the memorandum of understanding executed pursuant to subdivision two-a of section seventeen hundred four of this article.

6. "Central business district tolling collection system" means the electronic system of collecting tolls or other charges using electronic data and/or images that the Triborough bridge and tunnel authority will plan, design, install and construct pursuant to the memorandum of understanding executed pursuant to subdivision two-a of section seventeen hundred four of this article, and that such authority shall operate as part of the central business district tolling program.

7. "Central business district tolling customer service center" means the customer contact and back-office system and operation services for the collection of central business district tolls and enforcement of central business district toll violations that the Triborough bridge and tunnel authority will plan, design, implement and operate as part of the central business district tolling program.

8. "Operation date" means the date determined by the Triborough bridge and tunnel authority, which shall not be earlier than December thirty-first, two thousand twenty, for the beginning of the operation and enforcement of the central business district tolling program. The operation and enforcement date shall commence only after an initial program testing period of thirty days where no collection of any tolls, fees, or other charges shall be authorized. As of the commencement date of operation and enforcement, there shall be a period of sixty days

where only the established tolls may be collected without the collection of other fees or charges or fines.

9. "Triborough bridge and tunnel authority" means the corporation organized pursuant to section five hundred fifty-two of the public authorities law as consolidated pursuant to section five hundred fifty-two-a of the public authorities law or any successor corporation or corporation into which it may be consolidated.

§ 1704. Establishment of central business district tolling program. 1. The Triborough bridge and tunnel authority shall establish the central business district tolling program.

2. The central business district tolling program will operate in the central business district. The central business district shall include the geographic area in the borough of Manhattan south of and inclusive of sixtieth street to the extent practicable but shall not include the FDR Drive, and New York state route 9A otherwise known as the "West Side highway" including the Battery Park underpass and any surface roadway portion of the Hugh L. Carey Tunnel connecting to West St. The boundaries of the central business district shall not be modified, expanded, or reduced and shall incorporate the outer bounds of the aforementioned district to the extent practicable.

2-a. The Triborough bridge and tunnel authority shall enter into a memorandum of understanding with the city department of transportation for purposes of coordinating the planning, design, installation, construction and maintenance of the central business district tolling infrastructure including required signage. The Memorandum shall address the use of existing systems, devices and other facilities owned and operated by the city for the purposes of a central business district tolling program, as well as reimbursable costs associated with the planning, design, installation, construction and maintenance of such program. Such memorandum of understanding shall be entered into no later than sixty days from the effective date of this article.

3. (a) Notwithstanding any law to the contrary, the Triborough bridge and tunnel authority, pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation shall plan, design, install, construct, and maintain the central business district tolling infrastructure. The city of New York shall cooperate and consult with the Triborough bridge and tunnel authority to facilitate the planning, design, construction, timely implementation, and maintenance of the central business district tolling infrastructure and shall not unduly hinder or delay the planning, designing, installation, operation, construction, timely implementation, or maintenance of the same. Notwithstanding any provision of law to the contrary, the city of New York shall, pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the Triborough bridge and tunnel authority, be authorized to provide for the use of existing systems, devices and other facilities owned and operated by the city, including, but not limited to systems and devices installed pursuant to sections one thousand one hundred eleven-a, one thousand one hundred eleven-c, and one thousand one hundred eighty-b of this chapter to facilitate the Triborough bridge and tunnel authority's central business district tolling program and shall work with the Triborough bridge and tunnel authority to facilitate the same.

(b) The Triborough bridge and tunnel authority shall, pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation, plan, design, install, construct, and maintain a central business district toll collection system and implement and operate the same to collect the central business district toll.

(c) The Triborough bridge and tunnel authority shall plan, design, implement and operate a central business district toll customer service center.

(d) The central business district tolling program shall be planned, designed, implemented and operated to facilitate payment of central business district tolls by credit or debit card, check or automated clearing house payment, by telephone or over the internet or any other method of payment that the Triborough bridge and tunnel authority may implement.

(e) All procurements of goods, services or construction of any kind by the Triborough bridge and tunnel authority for the central business district tolling program shall be deemed to be subject only to the same requirements that otherwise apply to procurements by the Triborough bridge and tunnel authority.

(f) Signage shall be clearly delineated to provide notice at a reasonable distance prior to, and upon entry into, the central business district and upon exit from the central business district. Signage prior to entry must include the toll rates to be charged. Additionally, signage shall be provided, where practicable, to provide drivers adequate notice to avoid entry into the central business district. Design, placement and installation of signage by the Triborough bridge and tunnel authority shall be performed pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation.

4. The central business district tolling infrastructure, the central business district toll collection system and the central business district tolling customer service center shall be completed by the operation date.

5. Responsibility for maintenance of the central business district tolling infrastructure after the operation date shall be performed by the Triborough bridge and tunnel authority pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation.

6. The planning, designing, constructing, installing or maintaining of the central business district tolling program and the planning, designing, installing, constructing, operating or maintaining of the central business district toll collection system by the Triborough bridge and tunnel authority including the establishment by such authority of central business district tolls, and any other fees or rentals for the use of its projects and any changes thereafter shall not be subject to the provisions of article eight of the environmental conservation law, the provisions of chapter six of article forty-three or chapter five of title sixty-two of the rules of the city of New York,

or the provisions of section one hundred ninety-seven-c of the New York city charter, relating to a uniform land use review procedure, nor the provisions of any other local law of the city of New York of like or similar effect including approvals or charges associated with the use of property owned and maintained by the city of New York necessary for the installation of central business district tolling infrastructure nor shall the determination of the central business district toll amounts by the Triborough bridge and tunnel authority board be subject to any such provisions of law. The planning, designing, installing, constructing or maintaining of the central business district tolling program by the Triborough bridge and tunnel authority shall be performed pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section.

§ 1704-a. Central business district toll. 1. Consistent with the goals of reducing traffic congestion within the central business district and funding capital projects the Triborough bridge and tunnel authority shall have the power, subject to agreements with its bondholders, and applicable federal law to establish and charge variable tolls and fees for vehicles entering or remaining in the central business district at any time and shall have the power, subject to agreements with bondholders, and applicable federal law to make rules and regulations for the establishment and collection of central business district tolls, fees, and other charges. For purposes of establishing a central business district toll or tolls the board shall, at minimum, ensure annual revenues and fees collected under such program, less costs of operation of the same, provide for sufficient revenues into the central business district tolling capital lockbox fund, established pursuant to section five hundred fifty-three-j of the public authorities law necessary to fund fifteen billion dollars for capital projects for the 2020 to 2024 MTA capital program, and any additional revenues above that amount to be available for any successor programs. Additionally, no toll may be established and charged on passenger vehicles registered pursuant to subdivision six of section four hundred one of this chapter more than once per day for purposes of entering the central business district.

2. No qualifying authorized emergency vehicle as defined pursuant to section one hundred one of this chapter or a qualifying vehicle transporting a person with disabilities shall be charged a central business district toll if it enters or remains in the central business district. Application for such toll exemption shall be made in such manner as prescribed by the Triborough bridge and tunnel authority and shall contain such information as the authority may reasonably require.

3. (a) The Triborough bridge and tunnel authority shall implement a plan for credits, discounts and/or exemptions for tolls paid on bridges and crossings informed by the recommendations of the traffic mobility review board.

(b) The Triborough bridge and tunnel authority shall be authorized to provide additional credits, discounts and exemptions informed by the recommendations of the traffic mobility review board and a traffic study that considers impact.

4. The Triborough bridge and tunnel authority shall implement a plan to address credits, discounts, and/or exemptions for for-hire vehicles as defined by, and subject to a surcharge imposed by, article twenty-nine-C of the tax law for a for-hire transportation trip, informed by the recommendation of the traffic mobility review board.

§ 1705. Disposition of revenue and penalties. The Triborough bridge and tunnel authority shall establish and collect central business district tolls, fees and other charges as provided in subdivision twelve-a of section five hundred fifty-three of the public authorities law.

§ 1706. Reporting. Beginning one year after the operation date and every two years thereafter, the Triborough bridge and tunnel authority, in consultation with the city department of transportation shall report on the effect of the central business district tolling program on traffic congestion in and around the central business district and on mass transit use and taxi and for-hire vehicle use including the

vehicle-miles traveled for each trip within the central business district for taxis and for-hire vehicles; the current and historic volume and type of vehicles including, but not limited to, commercial trucks, transportation network companies, taxis, private cars, and tour buses, entering the central business district; environmental improvements, including but not limited to, air quality, and emissions trends in and around the central business district; congestion reduction measures; and transit ridership and average bus speeds within the central business district, and on all receipts and expenditures relating to the central business district tolling program. The department of transportation of the city of New York shall be required to assist in gathering and providing to the Triborough bridge and tunnel authority traffic impact data and other related data as directed by the Triborough bridge and tunnel authority for purposes of compiling such report. The report shall be readily available to the public, and shall be posted on the authority's website and be submitted to the governor, the director of the budget, the temporary president of the senate, the speaker of the assembly, the mayor and council speaker of the city of New York, the metropolitan transportation authority board and the metropolitan transportation authority capital program review board.

TITLE IX

PENALTIES AND DISPOSITION OF FINES AND FORFEITURES

Article 45. Penalties and disposition of fines and forfeitures.

ARTICLE 45

PENALTIES AND DISPOSITION OF FINES AND FORFEITURES

Section 1800. Penalties for traffic infractions.
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1809. Mandatory surcharge and crime victim assistance fee required in certain cases.
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1809-b. Mandatory surcharge required for certain violations relating to handicapped parking spaces.
1809-c. Additional surcharge required for certain violations relating to driving while intoxicated and driving while impaired.
1809-d. Mandatory surcharge for violation of maximum speed limits in highway construction or maintenance work areas.
1809-e. Additional surcharge required for certain violations.
1810. Compensation of officers shall not depend upon apprehension or arrests.

§ 1800. Penalties for traffic infractions. (a) It is a traffic infraction for any person to violate any of the provisions of this chapter or of any local law, ordinance, order, rule or regulation adopted pursuant to this chapter, unless such violation is by this chapter or other law of this state declared to be a misdemeanor or a felony.

(b) 1. Every person convicted of a traffic infraction for a violation of any of the provisions of this chapter or of any ordinance, order, rule or regulation adopted pursuant to section sixteen hundred thirty or sixteen hundred thirty-one of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than one hundred fifty dollars or by imprisonment for not

more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than four hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment, except that a person convicted of a traffic infraction for a violation of paragraph one of subdivision (d) of section one thousand one hundred eleven of this chapter outside of a city having a population of one million or more shall, for a first conviction thereof, be punished by a fine of not less than seventy-five dollars nor more than two hundred twenty-five dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than one hundred fifty dollars nor more than three hundred seventy-five dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than three hundred seventy-five dollars nor more than six hundred seventy-five dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment except that a person convicted for a violation of paragraph one of subdivision (d) of section one thousand one hundred eleven of this chapter shall, for a first conviction thereof, be punished by a fine of not less than one hundred fifty dollars nor more than four hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than three hundred dollars nor more than seven hundred fifty dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of

not less than seven hundred fifty dollars nor more than one thousand five hundred dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

2. Notwithstanding the provisions of paragraph one of this subdivision, a person convicted of a traffic infraction for a violation of paragraph two of subdivision (b) of section twelve hundred two of this chapter shall for a first conviction thereof be punished by a fine of not more than four hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment. Upon a conviction for a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than six hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

(c) Every person convicted of a traffic infraction for a violation of any local law, ordinance, order, rule, regulation or administrative code provision adopted pursuant to this chapter by any local authority or continued in effect by this chapter, except those adopted pursuant to sections sixteen hundred thirty and sixteen hundred thirty-one, shall be punished in the same manner as has heretofore been prescribed by law unless or until otherwise prescribed by local law, ordinance or state statute.

(d) A conviction of violation of any provision of this chapter shall not be a bar to a prosecution for an assault or for a homicide committed by any person in operating a motor vehicle or motorcycle.

(e) Every person convicted of a violation of the provisions of section eleven hundred forty-four of this chapter shall for a first conviction thereof be punished by a fine of not more than two hundred seventy-five dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment. For a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than four hundred fifty dollars or by imprisonment for not more than forty-five days or by both such

fine and imprisonment. For a conviction of a third violation and all subsequent violations, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

(f) Every person convicted of operating a truck, tractor or tractor-trailer combination having a total gross weight in excess of ten thousand pounds in violation of a local law, ordinance, rule or regulation enacted by the legislative body of any city with a population in excess of one million pursuant to the provisions of paragraph ten of subdivision (a) of section sixteen hundred forty of this chapter shall, for a first offense thereof, be punished by a fine of not less than two hundred dollars nor more than five hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment. For a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment. For a conviction of a third violation and all subsequent violations, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than one thousand dollars nor more than two thousand dollars, or by imprisonment for not more than ninety days or by both such fine and imprisonment.

(g) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a motor vehicle registered as a commercial vehicle and having a gross vehicle weight rating of less than ten thousand pounds shall, for a first conviction thereof, be punished by a fine of not more than two hundred fifty dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within

a period of eighteen months, such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment. Provided, however, the provisions of this subdivision shall not apply to a commercial motor vehicle as such term is defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter.

(h) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a motor vehicle registered as a commercial vehicle and having a gross vehicle weight rating of at least ten thousand pounds but no more than twenty-six thousand pounds shall, for a first conviction thereof, be punished by a fine of not more than three hundred fifty dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than one thousand dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment; provided, however, the provisions of this subdivision shall not apply to a commercial motor vehicle as such term is defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter.

(i) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to

one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a commercial motor vehicle as defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter, for a first conviction thereof, be punished by a fine of not more than seven hundred dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than one thousand five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than two thousand dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment.

§ 1801. Penalties for misdemeanors. 1. Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than three hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than five hundred twenty-five dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than one thousand one hundred twenty-five dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment, except that any fine imposed upon conviction of a violation of section twelve hundred twelve of this chapter shall be not less than one hundred dollars.

2. Notwithstanding the provisions of subdivision one of this section, every operator or registered owner of a motor vehicle having a registered maximum gross weight of eighteen thousand pounds or more convicted of a misdemeanor for a violation of the provisions of the closing paragraph of subdivision one of section three hundred seventy-five of this chapter with respect to the knowing disconnection of any set of service brakes on such motor vehicle, shall be punished by a fine of not more than two thousand two hundred fifty dollars.

§ 1802. Receipts for fines or bail; installment payment plans. 1. Receipts for fines or bail. Upon receipt of the payment of any fine or penalty collected under a sentence or judgment of conviction of a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic or the deposit of bail of a person charged with a violation of any such provision, local law, ordinance, order, rule or regulation, the officer or employee receiving such payment or deposit shall issue a receipt therefor when the payment or deposit is made in cash. Whenever any such payment or deposit is made by check, money order or in other property, the officer or employee shall issue a receipt therefor upon request; provided, however, no such receipt shall be issued where a fine or penalty is paid by mail unless the name and address of the payee is known to such officer or employee or enclosed with the payment.

2. Installment payment plans. (a) Whenever fines, fees, and/or surcharges are imposed upon a natural person upon a conviction of a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic, or whenever an order is entered pursuant to subdivision three of section two hundred twenty-seven of this chapter, such fines, fees, and/or surcharges may be paid in installments at no charge to the natural person. The court or hearing officer shall offer such persons the opportunity to enter into an installment payment plan at any time, including after a conviction entered as a result of the failure to appear in response to a summons or appearance ticket. Any

such installment payment plan shall be comprised of all fines, fees and mandatory surcharges, including but not limited to those described in subparagraph (i) of paragraph (j-1) of subdivision two of section five hundred three, subdivision three of section five hundred fourteen and paragraph a of subdivision four of section two hundred twenty-seven of this chapter, and shall consist of monthly payments that do not exceed two percent of such person's monthly net income or twenty-five dollars per month, whichever is greater. For the purposes of this subdivision, the term "net income" shall mean such person's total income from all sources and assets, minus deductions required by law including but not limited to administrative or court-ordered garnishments and support payments. A court or hearing officer may require the submission of a financial disclosure report, on a form prescribed by the commissioner, from all persons who opt to enter into installment payment plans. A court or hearing officer also may accept payments higher than the set amount, but may not undertake additional collection activity so long as the person meets his or her payment obligations under the installment payment plan. A court or hearing officer may undertake additional collection activity, but no sooner than ninety days after a person fails to meet their payment obligation under the installment payment plan; a court, hearing officer or the commissioner shall not suspend such person's driver's license or privileges for failure to meet their payment obligation under the installment payment plan. A court or hearing officer may require persons entering installment payment plans to appear periodically before such court or hearing officer to assess their financial circumstances but no more frequently than annually and may set a new payment amount if such person's financial circumstances have changed. A person who enters into an installment payment plan and experiences a reduction in income may petition the court or hearing officer no more than two times in a calendar year to seek a reduction in the monthly payment; provided, however, in the interests of justice, the court or hearing officer may accept a reduction request from such person at any time.

(b) The court or hearing officer shall have the discretion in the interests of justice to reduce or waive the amount of any fine, fee or mandatory surcharge assessed for a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made

by local authorities in relation to traffic.

(c) A person assessed a fine, fee and/or mandatory surcharge following a conviction for a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic, or the entering of an order pursuant to subdivision three of section two hundred twenty-seven of this chapter, shall be notified of their right to an installment payment plan (a) at the time the summons is issued; (b) at the time of sentencing; and (c) in any communication concerning imposition or collection of a fine, fee or mandatory surcharge. Information about the availability of installment payment plans shall be prominently posted, in a clear and conspicuous manner: at each court and administrative tribunal and its website, if any, and on the commissioner's website.

§ 1803. Disposition of fines and forfeitures. 1. Except as otherwise provided in subdivision five of section two hundred twenty-seven of this chapter and as provided in section eleven hundred ninety-seven of this chapter, section ninety of the state finance law and sections fourteen-f and one hundred forty of the transportation law, all fines and penalties collected under a sentence or judgment of conviction of a violation of this chapter or of any act relating to the use of highways by motor vehicles or trailers, now in force or hereafter enacted, shall be distributed in the following manner:

a. for a violation which occurs in a city, town or suburban town, any fine or penalty shall be paid to the city, town or suburban town in which the violation occurs, when such violation is of (1) any of the provisions of title seven of this chapter, but including violations of section eleven hundred eighty only when occurring in state parks for which the office of parks, recreation and historic preservation has established maximum speed limits pursuant to section sixteen hundred thirty and the violations could have been charged under either such established maximum speed limits or another section of this chapter, and when involving maximum speed limits established pursuant to section sixteen hundred forty-three, sixteen hundred forty-four, sixteen hundred sixty-two-a, sixteen hundred sixty-three or sixteen hundred seventy, and

excluding violations of sections eleven hundred eighty-two, eleven hundred ninety-two and twelve hundred twelve of this chapter, or (2) any ordinance, order, rule or regulation adopted pursuant to article two-E of the transportation law or section sixteen hundred thirty of this chapter by the East Hudson Parkway Authority or by its successor, or the County of Westchester Department of Parks, Recreation and Conservation, or the state office of parks, recreation and historic preservation. For purposes of this paragraph, violations shall be deemed to be violations of any such ordinance, order, rule or regulation when they occur on highways under the jurisdiction of the enumerated entities and the violations could have been charged under either such ordinance, order, rule or regulation or another section of this chapter.

b. for a violation which occurs in a village in which the office of village justice is established, any fine or penalty shall be paid to the village in which the violation occurs, when such violation is of (1) any of the provisions of title seven of this chapter, but including violations of section eleven hundred eighty only when occurring in state parks for which the office of parks, recreation and historic preservation has established maximum speed limits pursuant to section sixteen hundred thirty and the violations could have been charged under either such established maximum speed limits or another section of this chapter, and when involving maximum speed limits established pursuant to section sixteen hundred forty-three, sixteen hundred forty-four or sixteen hundred seventy, and excluding violations of sections eleven hundred eighty-two, eleven hundred ninety-two and twelve hundred twelve of this chapter, or (2) any ordinance, order, rule or regulation adopted pursuant to article two-E of the transportation law or section sixteen hundred thirty of this chapter by the East Hudson Parkway Authority or by its successor, or the County of Westchester Department of Parks, Recreation and Conservation, or the state office of parks, recreation and historic preservation. For purposes of this paragraph, violations shall be deemed to be violations of any such ordinance, order, rule or regulation when they occur on highways under the jurisdiction of the enumerated entities and the violations could have been charged under either such ordinance, order, rule or regulation, or another section of this chapter. Notwithstanding the foregoing provisions of this

paragraph, all fines, penalties and forfeitures for violation of a village ordinance, local law or regulation adopted pursuant to the authorization of paragraph six of subdivision (a) of section sixteen hundred forty of this chapter prohibiting, restricting or limiting the stopping, standing or parking of vehicles shall be paid to such village whether or not the village has established the office of village justice.

c. for compliance with or violations of subdivision nineteen of section three hundred eighty-five of this chapter, notwithstanding any inconsistent provision of law, except as provided in section ninety of the state finance law, the fees and fines collected by the state pursuant to sections two hundred twenty-seven, three hundred eighty-five and eighteen hundred three of this chapter and section ninety-nine-a of the state finance law, shall be made available to the state comptroller for deposit in the general fund except that fines collected within a city not wholly included within one county shall be paid to such city in accordance with the procedures set forth in subdivision four of section two hundred twenty-seven of this chapter for deposit into the general fund of such city.

d. for violations of section eleven hundred eighty which are not included in paragraph a or paragraph b of this subdivision, violations of sections eleven hundred eighty-two, eleven hundred ninety-two, except in those counties adopting a special traffic option program for driving while intoxicated pursuant to section eleven hundred ninety-seven of this chapter, and section twelve hundred twelve of this chapter, and violations of this chapter or of any act relating to the use of highways by motor vehicles or trailers, now in force or hereafter enacted, for which no other distribution is prescribed, all fines, penalties and forfeitures shall be paid to the state.

e. for a violation which occurs within a county which has established a traffic and parking violations agency pursuant to section three hundred seventy of the general municipal law, other than parking, standing or stopping violations except for those set forth in section four hundred two of this chapter, and which violation is disposed of by

such agency, any fine or penalty shall be paid to the county in which the violation occurs, when such violation is of any of the provisions of title seven of this chapter, but including violations of section eleven hundred eighty of this chapter only when involving maximum speed limits in state parks established by the office of parks, recreation and historic preservation pursuant to section sixteen hundred thirty of this chapter and when involving maximum speed limits established pursuant to section sixteen hundred forty-three, sixteen hundred forty-four, sixteen hundred sixty-two-a, sixteen hundred sixty-three or sixteen hundred seventy of this chapter, and excluding violations of sections eleven hundred eighty-two, eleven hundred ninety-two and twelve hundred twelve of this chapter.

2. Whenever a defendant is arrested and arraigned before a judicial officer authorized to conduct any proceedings in or in connection with any prosecution triable in any local court of inferior jurisdiction of a city or before a town court, or a village court on a charge in which the state is entitled to all fines and penalties under a sentence or judgment of conviction such city, town or village shall be entitled to receive the fees set forth in section ninety-nine-l of the general municipal law and such fees shall be a state charge and paid as provided in section ninety-nine-a of the state finance law.

* 3. All fines, penalties and forfeitures paid to a city, town or village pursuant to the provisions of paragraph a of subdivision one of this section and subdivision ten of this section shall be credited to the general fund of such city, town or village, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Effective until December 1, 2029

* 3. All fines, penalties and forfeitures paid to a city, town or village pursuant to the provisions of paragraph a of subdivision one of this section shall be credited to the general fund of such city, town or village, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Effective December 1, 2029

4. All fines, penalties and forfeitures collected in a city, upon

conviction or upon forfeiture of bail by any person charged with a violation of any local law, ordinance, order, rule, regulation, administrative code provision or sanitary or health code provision adopted or continued pursuant to this chapter, shall be paid to the city and credited to its general fund, unless a different disposition is prescribed by charter, special law, local law or ordinance.

5. All fines, penalties and forfeitures for violations of section eleven hundred eighty of this chapter, which relate to maximum speed limits established by a village pursuant to sections sixteen hundred forty-three and sixteen hundred forty-four or by a suburban town pursuant to section sixteen hundred sixty-two-a of this chapter, and all bail forfeited by the non-appearance of defendants charged with such violations shall be paid over to the state comptroller by the court, justice or other officer collecting the same within the first ten days of the month following the collection, except as otherwise provided by subdivision three of section ninety-nine-a of the state finance law. Whenever such fines, penalties and forfeitures, including bail forfeited, in any year commencing July first shall aggregate in excess of five dollars for each inhabitant of the village or suburban town, as the case may be, according to the last preceding federal census, such excess shall be the property of the state and shall be paid into the general fund of the state treasury.

6. The comptroller from the moneys received pursuant to this section shall, within six years from the receipt thereof, refund any fine received pursuant to this section which was imposed by a judgment of conviction that has been reversed and any fine, penalty or forfeiture received by the comptroller, payment of which was not required by this section. In any action by the state to recover fines, penalties, or forfeitures collected more than six years before the commencement of the action, the defendant shall be entitled to set off a claim for refund of any such item paid to the state during the ten years preceding the commencement of the action.

8. All fines, penalties and forfeitures referred to in subdivision one of this section, except fines, penalties and forfeitures paid to the

commissioner of taxation and finance as required by section thirty-nine of the judiciary law, and except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law, shall be paid to the state comptroller by the court, judge, magistrate or other officer within the first ten days of the month following collection. Every such payment to the comptroller shall be accompanied by a statement in such form and detail as the comptroller shall prescribe.

9. a. Where a county establishes a special traffic options program for driving while intoxicated, approved by the commissioner, pursuant to section eleven hundred ninety-seven of this chapter, all fines, penalties and forfeitures: (1) imposed and collected for violations of subparagraphs (ii) and (iii) of paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of subdivision three of section five hundred eleven of this chapter; (2) imposed and collected in accordance with section eleven hundred ninety-three of this chapter for violations of section eleven hundred ninety-two of this chapter; (3) collected by any court, judge, magistrate or other officer imposed upon a conviction for: aggravated vehicular assault, pursuant to section 120.04-a of the penal law; vehicular assault in the first degree, pursuant to section 120.04 of the penal law; vehicular assault in the second degree, pursuant to section 120.03 of the penal law; aggravated vehicular homicide, pursuant to section 125.14 of the penal law; vehicular manslaughter in the first degree, pursuant to section 125.13 of the penal law; and vehicular manslaughter in the second degree, pursuant to section 125.12 of the penal law; and (4) civil penalties imposed pursuant to subdivision two of section eleven hundred ninety-four-a of this chapter, shall be paid to such county. In addition, any surcharges imposed pursuant to section eighteen hundred nine-c and paragraph b of subdivision one of section eighteen hundred nine-e of this chapter shall be paid to such county in such manner and for such purposes as provided for in section eleven hundred ninety-seven of this chapter.

b. Any such fine, penalty, or forfeiture collected by any court, judge, magistrate or other officer referred to in subdivision one of section thirty-nine of the judiciary law, establishing a unified court budget, shall be paid to that county within the first ten days of the

month following collection.

c. Any such fine, penalty, or forfeiture collected by any other court, judge, magistrate or other officer, including, where appropriate, a hearing officer acting on behalf of the commissioner, shall be paid to the state comptroller within the first ten days of the month following collection. Every such payment to the comptroller shall be accompanied by a statement in such form and detail as the comptroller shall provide. The comptroller shall pay these funds to the county in which the violation occurs.

d. Upon receipt of any monies referred to in this section, the county shall deposit them in a separate account entitled "special traffic options program for driving while intoxicated".

* 10. Except where adjudicated by a traffic camera violations bureau or as otherwise provided in paragraph e of subdivision one of this section, where a county has established a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with section eleven hundred seventy-four of this chapter in accordance with section eleven hundred seventy-four-a of this chapter, any fine or penalty collected by a court, judge, magistrate or other officer for an imposition of liability which occurs within such county pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. The comptroller shall pay ninety percent of any such fine or penalty imposed for such liability to the county in which the violation giving rise to the liability occurred, and ten percent of any such fine or penalty to the city, town or village in which the violation giving rise to the liability occurred.

* NB Repealed December 1, 2029

* 11. Where the commissioner of transportation has established a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-e of this chapter, any fine or penalty collected by a court, judge, magistrate or other officer

for an imposition of liability which occurs pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection, except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. Notwithstanding the provisions of subdivision five of this section, eighty percent of any such fine or penalty imposed for such liability shall be paid to the general fund, and twenty percent of any such fine or penalty shall be paid to the city, town or village in which the violation giving rise to the liability occurred, provided, however, that within a county that has established a traffic and parking violations agency pursuant to section three hundred seventy of the general municipal law and such liability is disposed of by such agency, eighty percent of any such fine or penalty imposed for such liability shall be paid to the general fund, and twenty percent of any such fine or penalty shall be paid to the county in which the violation giving rise to the liability occurred. With respect to the percentage of fines or penalties paid to the general fund, no less than sixty percent shall be dedicated to department of transportation work zone safety projects after deducting the expenses necessary to administer such demonstration program, provided, however, that such funds provided pursuant to this subdivision shall be payable on the audit and warrant of the comptroller and shall only be used to supplement and not supplant current expenditures of state funds on work zone safety projects. For the purposes of this subdivision, "work zone safety projects" shall apply to work zones under the jurisdiction of the department of transportation and shall include, but not be limited to, inspection and implementation of work zone design, maintenance, traffic plans and markings, worker safety training, contractor outreach, enforcement efforts, radar speed display signs at major active work zones and police presence at major active work zones, as provided in section twenty-two of the transportation law. All fines, penalties and forfeitures paid to a county, city, town or village pursuant to the provisions of this subdivision shall be credited to the general fund of such county, city, town or village, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Repealed October 6, 2031

* 12. Where the chair of the New York state thruway authority has established a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-e of this chapter, any fine or penalty collected by a court, judge, magistrate or other officer for an imposition of liability which occurs pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection, except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. Notwithstanding the provisions of subdivision five of this section, eighty percent of any such fine or penalty imposed for such liability shall be paid to the thruway authority, and twenty percent of any such fine or penalty shall be paid to the city, town or village in which the violation giving rise to the liability occurred, provided, however, that within a county that has established a traffic and parking violations agency pursuant to section three hundred seventy of the general municipal law and such liability is disposed of by such agency, eighty percent of any such fine or penalty imposed for such liability shall be paid to the thruway authority, and twenty percent of any such fine or penalty shall be paid to the county in which the violation giving rise to the liability occurred. With respect to the percentage of fines or penalties paid to the thruway authority, no less than sixty percent shall be dedicated to thruway authority work zone safety projects after deducting the expenses necessary to administer such demonstration program, provided, however, that such funds provided pursuant to this subdivision shall be payable on the audit and warrant of the comptroller and shall only be used to supplement and not supplant current expenditures of state funds on work zone safety projects. For the purposes of this subdivision, "work zone safety projects" shall apply to work zones under the jurisdiction of the thruway authority and shall include, but not be limited to, inspection and implementation of work zone design, maintenance, traffic plans and markings, worker safety training, contractor outreach, enforcement efforts, radar speed display signs at major active work zones and police presence at major active work zones, as provided in section twenty-two

of the transportation law. For the purposes of this subdivision, the term "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. All fines, penalties and forfeitures paid to a county, city, town or village pursuant to the provisions of this subdivision shall be credited to the general fund of such county, city, town or village, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Repealed October 6, 2031

* 13. Where the county of Westchester has established a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-g of this chapter, any fine or penalty collected by a court, judge, magistrate or other officer for an imposition of liability which occurs within a city, town or village within such county pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection, except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. The comptroller shall pay eighty percent of any such fine or penalty imposed for such liability to the county of Westchester, and twenty percent of any such fine or penalty to the city, town or village in which the violation giving rise to the liability occurred. All fines, penalties and forfeitures paid to a city, town or village pursuant to the provisions of this subdivision shall be credited to the general fund of such city, town or village, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Repealed December 1, 2027

** 14. Where the chair of the triborough bridge and tunnel authority has established a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with section three hundred eighty-five of this chapter and the rules of the triborough bridge and tunnel authority in relation to gross vehicle weight and/or axle weight in accordance with section three hundred

eighty-five-a of this chapter, any fine or penalty collected by the parking violations bureau of the city of New York for an imposition of liability which occurs pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection, except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. Notwithstanding the provisions of subdivision five of this section, eighty percent of any such fine or penalty imposed for such liability shall be paid to the triborough bridge and tunnel authority, and twenty percent of any such fine or penalty shall be paid to the city of New York. With respect to the percentage of fines or penalties paid to the triborough bridge and tunnel authority, one hundred percent shall be dedicated to capital projects related to triborough bridge and tunnel authority bridges and tunnels after deducting the expenses necessary to administer such demonstration program, provided, however, that such funds provided pursuant to this subdivision shall be payable on the audit and warrant of the comptroller. For the purposes of this subdivision, the term "triborough bridge and tunnel authority" shall mean the corporation organized pursuant to section five hundred fifty-two of the public authorities law, the term "chair" shall mean the president of the triborough bridge and tunnel authority, and the term "covered location" shall have the same meaning as such term is defined by subparagraph (ii) of paragraph one-a of subdivision (a) of section three hundred eighty-five-a of this chapter. All fines, penalties and forfeitures paid to the city of New York pursuant to the provisions of this subdivision shall be credited to the general fund of such city, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Repealed December 1, 2030

* NB There are two sb 14's

** 14. Where the chair of the Triborough bridge and tunnel authority has established a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-e of this chapter, any fine or penalty collected by the New York city parking

violations bureau for an imposition of liability which occurs pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection, except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. Notwithstanding the provisions of subdivision five of this section, eighty percent of any such fine or penalty imposed for such liability shall be paid to the Triborough bridge and tunnel authority, and twenty percent of any such fine or penalty shall be paid to the city of New York. With respect to the percentage of fines or penalties paid to the Triborough bridge and tunnel authority, no less than sixty percent shall be dedicated to Triborough bridge and tunnel authority work zone safety projects after deducting the expenses necessary to administer such demonstration program, provided, however, that such funds provided pursuant to this subdivision shall be payable on the audit and warrant of the comptroller and shall only be used to supplement and not supplant current expenditures of Triborough bridge and tunnel authority funds on work zone safety projects. For the purposes of this subdivision, "work zone safety projects" shall apply to work zones under the jurisdiction of the Triborough bridge and tunnel authority and shall include, but not be limited to, inspection and implementation of work zone design, maintenance, traffic plans and markings, worker safety training, contractor outreach, and enforcement efforts. For the purposes of this subdivision, the term "Triborough bridge and tunnel authority" shall mean the New York state Triborough bridge and tunnel authority, a body corporate and politic constituting a public benefit corporation created and constituted pursuant to title three of article three of the public authorities law and the term "chair" shall mean the president of the Triborough bridge and tunnel authority. All fines, penalties and forfeitures paid to the city of New York pursuant to the provisions of this subdivision shall be credited to the general fund of such city, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Repealed October 6, 2031

* NB There are two sb 14's

** 15. Where the chair of the bridge authority has established a

demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with section three hundred eighty-five of this chapter and the rules of the bridge authority in relation to gross vehicle weight and/or axle weight in accordance with section three hundred eighty-five-a of this chapter, any fine or penalty collected by a court, judge, magistrate or other officer for an imposition of liability which occurs pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection, except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. Notwithstanding the provisions of subdivision five of this section, eighty percent of any such fine or penalty imposed for such liability shall be paid to the bridge authority, and twenty percent of any such fine or penalty shall be paid to the city, town or village in which the violation giving rise to the liability occurred. With respect to the percentage of fines or penalties paid to the bridge authority, one hundred percent shall be dedicated to capital projects related to bridge authority bridges after deducting the expenses necessary to administer such demonstration program, provided, however, that such funds provided pursuant to this subdivision shall be payable on the audit and warrant of the comptroller. For the purposes of this subdivision, the term "bridge authority" shall mean the New York state bridge authority created pursuant to section five hundred twenty-seven of the public authorities law and the term "covered location" shall have the same meaning as such term is defined by subparagraph (ii) of paragraph one-b of subdivision (a) of section three hundred eighty-five-a of this chapter. All fines, penalties and forfeitures paid to a city, town or village pursuant to the provisions of this subdivision shall be credited to the general fund of such city, town or village, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Repealed December 1, 2030

* NB There are two sb 15's

** 15. Where the chair of the New York state bridge authority has established a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with

subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-e of this chapter, any fine or penalty collected by a court, judge, magistrate or other officer for an imposition of liability which occurs pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection, except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. Notwithstanding the provisions of subdivision five of this section, eighty percent of any such fine or penalty imposed for such liability shall be paid to the bridge authority, and twenty percent of any such fine or penalty shall be paid to the city, town or village in which the violation giving rise to the liability occurred. With respect to the percentage of fines or penalties paid to the bridge authority, no less than sixty percent shall be dedicated to bridge authority work zone safety projects after deducting the expenses necessary to administer such demonstration program, provided, however, that such funds provided pursuant to this subdivision shall be payable on the audit and warrant of the comptroller and shall only be used to supplement and not supplant current expenditures of bridge authority funds on work zone safety projects. For the purposes of this subdivision, "work zone safety projects" shall apply to work zones under the jurisdiction of the bridge authority and shall include, but not be limited to, inspection and implementation of work zone design, maintenance, traffic plans and markings, worker safety training, contractor outreach, and enforcement efforts. For the purposes of this subdivision, the term "bridge authority" shall mean the New York state bridge authority, a body corporate and politic constituting a public benefit corporation created and constituted pursuant to title two of article three of the public authorities law. All fines, penalties and forfeitures paid to a city, town or village pursuant to the provisions of this subdivision shall be credited to the general fund of such city, town or village, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Repealed October 6, 2031

* NB There are two sb 15's

* 16. Where the chair of the port authority of New York and New Jersey

has established a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with section three hundred eighty-five of this chapter and the rules of the port authority in relation to gross vehicle weight and/or axle weight in accordance with section three hundred eighty-five-a of this chapter, any fine or penalty collected by the parking violations bureau of the city of New York for an imposition of liability which occurs pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection, except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. Notwithstanding the provisions of subdivision five of this section, eighty percent of any such fine or penalty imposed for such liability shall be paid to the port authority, and twenty percent of any such fine or penalty shall be paid to the city of New York where the violation giving rise to the liability occurred. With respect to the percentage of fines or penalties paid to the port authority, one hundred percent shall be dedicated to capital projects related to port authority bridges after deducting the expenses necessary to administer such demonstration program, provided, however, that such funds provided pursuant to this subdivision shall be payable on the audit and warrant of the comptroller. For the purposes of this subdivision, the term "port authority" shall mean the port authority of New York and New Jersey, 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 and the term "covered location" shall have the same meaning as such term is defined by subparagraph (ii) of paragraph one-c of subdivision (a) of section three hundred eighty-five-a of this chapter. All fines, penalties and forfeitures paid to the city of New York pursuant to the provisions of this subdivision shall be credited to the general fund of such city, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Repealed December 1, 2030

* 17. Where the chair of the New York state thruway authority has established a demonstration program imposing monetary liability on the

owner of a vehicle for failure of an operator thereof to comply with section three hundred eighty-five of this chapter and the rules of the thruway authority in relation to gross vehicle weight and/or axle weight in accordance with section three hundred eighty-five-a of this chapter, any fine or penalty collected by a court, judge, magistrate or other officer for an imposition of liability which occurs pursuant to such program shall be paid to the state comptroller within the first ten days of the month following collection, except as otherwise provided in subdivision three of section ninety-nine-a of the state finance law. Every such payment shall be accompanied by a statement in such form and detail as the comptroller shall provide. Notwithstanding the provisions of subdivision five of this section, eighty percent of any such fine or penalty imposed for such liability shall be paid to the thruway authority, and twenty percent of any such fine or penalty shall be paid to the city, town or village in which the violation giving rise to the liability occurred. With respect to the percentage of fines or penalties paid to the thruway authority, one hundred percent shall be dedicated to capital projects related to the thruway and thruway bridges after deducting the expenses necessary to administer such demonstration program, provided, however, that such funds provided pursuant to this subdivision shall be payable on the audit and warrant of the comptroller. For the purposes of this subdivision, the term "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 and the term "covered location" shall have the same meaning as such term is defined by subparagraph (ii) of paragraph one-d of subdivision (a) of section three hundred eighty-five-a of this chapter and the term "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. All fines, penalties and forfeitures paid to a city, town or village pursuant to the provisions of this subdivision shall be credited to the general fund of such city, town or village, unless a different disposition is prescribed by charter, special law, local law or ordinance.

* NB Repealed December 1, 2030

§ 1804. Prohibition of imposition and collection of a fine, penalty, forfeiture, fee or surcharge. A municipality may only impose a fine, penalty, forfeiture, or any other fee or surcharge against a person charged with a violation of this chapter or any local law, ordinance, order, rule, regulation or administrative code adopted pursuant to this chapter if such person is convicted of or found liable for a violation of this chapter or any local law, ordinance, order, rule, regulation or administrative code adopted pursuant to this chapter in satisfaction of such charge.

§ 1805. Plea of guilty, how put in. The provisions of section 170.10 of the criminal procedure law and the provisions of section eighteen hundred seven of this article may be waived, to the extent hereinafter indicated, by a defendant charged with a violation of any provision of the tax law or the transportation law regulating traffic, or a traffic infraction, as defined in this chapter, other than a third or subsequent speeding violation committed within a period of eighteen months, provided that he shall submit to the local criminal court having jurisdiction, in person, by duly authorized agent, by first class mail or by registered or certified mail, return receipt requested, an application setting forth (a) the nature of the charge, (b) the information or instructions required by section eighteen hundred seven of this article to be given defendant upon arraignment, (c) that defendant waives arraignment in open court and the aid of counsel, (d) that he pleads guilty to the offense as charged, (e) that defendant elects and requests that the charge be disposed of and the fine or penalty fixed by the court, pursuant to this section, (f) any statement or explanation that the defendant may desire to make concerning the offense charged and (g) that defendant makes all statements with respect to such application under penalty of perjury. This application shall be in such form as the commissioner shall prescribe and a copy thereof shall be handed to the defendant by the officer charging him with such offense. Thereupon the local criminal court may proceed as though the defendant had been convicted upon a plea of guilty in open court,

provided, however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full, prior to which time such court, in its discretion, may annul any proceedings hereunder, including such tentative imposition of fine or penalty, and deny the application, in which event the charge shall be disposed of pursuant to the applicable provisions of law, as though no proceedings had been had under this section. If upon receipt of the aforesaid application such court shall deny the same, it shall thereupon inform the defendant of this fact, and that he is required to appear before the said court at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

§ 1806. Plea of not guilty by a defendant charged with a traffic infraction. In addition to appearing personally to enter a plea of not guilty to a violation of any provision of the tax law or the transportation law regulating traffic, or to a traffic infraction for the violation of any of the provisions of the vehicle and traffic law or of any local law, ordinance, order, rule or regulation relating to the operation of motor vehicles or motorcycles, a defendant may enter a plea of not guilty by mailing to the court of appropriate jurisdiction the ticket making the charge and a signed statement indicating such plea. Such plea must be sent: (a) by registered or certified mail, return receipt requested or by first class mail; and (b) within forty-eight hours after receiving such ticket. Upon receipt of such ticket and statement, the court shall advise the violator, by first class mail, of an appearance at which no testimony shall be taken. If the motorist requests a trial, the court shall set a trial date on a date subsequent to the date of the initial appearance and shall notify the defendant of the date by first class mail but no warrant of arrest for failure to appear can be issued until the violator is notified of a new court appearance date by registered or certified mail, return receipt requested, and fails to appear.

§ 1806-a. Default judgment in cases of failure to answer. 1. In the

event a person charged with a traffic infraction does not answer within the time specified, the court having jurisdiction, other than a court in a city over one million population may, in addition to any other action authorized by law, enter a plea of guilty on behalf of the defendant and render a default judgment of a fine determined by the court within the amount authorized by law. Any judgment entered pursuant to default shall be civil in nature, but shall be treated as a conviction for the purposes of this section. However, at least thirty days after the expiration of the original date prescribed for entering a plea and before a plea of guilty and a default judgment may be rendered, the traffic violations bureau or, if there be none, the clerk of the court, shall notify the defendant by certified mail: (a) of the violation charged; (b) of the impending plea of guilty and default judgment; (c) that such judgment will be filed with the county clerk of the county in which the operator or registrant is located, and (d) that a default or plea of guilty may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. Pleas entered within that period shall be in a manner prescribed in the notice. In no case shall a default judgment and plea of guilty be rendered more than two years after the expiration of the time prescribed for originally entering a plea. When a person has entered a plea of not guilty and has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing which shall be scheduled by the court of such city, village or town within thirty days of such demand.

2. The filing of the default judgment with the county clerk shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record and such judgment shall remain in full force and effect for eight years notwithstanding any other provision of law.

3. Notwithstanding the provisions of subdivision one of this section, a traffic violations bureau or, if there be none, the clerk of the court, shall have two years from the effective date of this act to serve notice upon an operator or owner of a motor vehicle charged with a

traffic violation who has not answered within the time specified and prior to the effective date of this act.

4. In the event a person charged with a parking violation does not answer within the time specified, a traffic and parking violations agency may, in addition to any other action authorized by law, enter a plea of guilty on behalf of the defendant and render a default judgment of a fine determined by the judicial hearing officer within the amount authorized by law. Any judgment entered pursuant to default shall be civil in nature, but shall be treated as a conviction for the purposes of this section. However, at least thirty days after the expiration of the original date prescribed for entering a plea and before a plea of guilty and a default judgment may be rendered, the traffic and parking violations agency shall notify the defendant by certified mail: (a) of the violation charged; (b) of the impending plea of guilty and default judgment; (c) that such judgment will be filed with the county clerk of the county in which the operator or registrant is located, and (d) that a default or plea of guilty may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. Pleas entered within that period shall be in a manner prescribed in the notice. In no case shall a default judgment and plea of guilty be rendered more than two years after the expiration of the time prescribed for originally entering a plea. When a person has entered a plea of not guilty and has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing which shall be scheduled by the traffic and parking violations agency within thirty days of such demand.

5. If a motor vehicle which is owned by a rental or leasing company is ticketed for a traffic infraction, the municipality shall not enter a default judgement under this section against the rental or leasing company if, when the municipality sends the notice to the company, the company sends to the municipality within fifteen days a copy of the rental or leasing agreement covering that vehicle on that date with the name and address of the lessee clearly legible. If this information is not sent to the municipality within such fifteen day time period, the municipality shall proceed under this section to enter a default

judgement and the rental or leasing company shall be liable for the traffic infraction.

§ 1807. Provisions applicable to arraignments for traffic violations. 1. The local criminal court, upon the arraignment in this state of a resident of this state charged with a violation of the vehicle and traffic law, or other law or ordinance relating to the operation of motor vehicles or motor cycles, and before accepting a plea, or in the case of such a defendant who has previously pleaded not guilty, as provided in section eighteen hundred six of this chapter, and who wishes to change or withdraw such plea, must inform the defendant at the time of his arraignment or appearance for trial in substance as follows:

A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motor cycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

The giving of the foregoing instructions by means of a statement printed in a noticeably distinct manner and in bold type in a size equal to at least twelve point type, upon a summons or ticket issued to a person charged with any such offense shall constitute compliance with the requirements of this section.

The foregoing provisions of this section may be waived as provided in section eighteen hundred five of this chapter.

2. Upon the arraignment of any person under eighteen years of age who resides within the household of his parent or guardian upon a charge of a violation of the vehicle and traffic law or other law or ordinance relating to the operation of motor vehicles or motor cycles, except a violation relating to parking, stopping or standing, the local criminal court which arraigns him shall forthwith transmit written notice of such arraignment to the parent or guardian of such minor person; provided, however, that if a conviction of such person follows such arraignment

upon the same day, or in case such person waives arraignment and enters a plea of guilty to the offense as charged in accordance with the provisions of section eighteen hundred five of this chapter, transmittal of notice of his conviction as provided in section five hundred fourteen of this chapter shall be sufficient and the notice of arraignment hereunder need not be given; provided further that the failure of a local criminal court to transmit such notice of arraignment shall in no manner affect the validity of a conviction subsequently obtained.

§ 1808. Effect of stay order on appeal from judgment of conviction of an offense under this chapter. (a) When an appeal is taken to an intermediate appellate court from a conviction of an offense under this chapter resulting in the suspension or revocation of the defendant's motor vehicle operator's license, and a stay of execution is granted ordering reinstatement of such license during the pendency and until the determination of such appeal, service of a certified copy of such stay order by mail upon the commissioner of motor vehicles shall be binding upon the commissioner; and during a period of ninety days from the date such stay order was granted, or until such appeal is determined, if sooner than ninety days, such commissioner shall be stayed from taking any proceedings under the vehicle and traffic law to suspend or revoke such license on account of such conviction; and such order shall contain appropriate provisions to that effect.

(b) For good cause shown, such stay may be extended by the court, in its discretion, for additional periods not to exceed ninety days each; such extension order or orders, when served upon the commissioner of motor vehicles in the same manner as the original stay order, shall be binding upon him to the same extent as the original stay order for such additional period or periods.

(c) A stay order or orders issued pursuant to section 460.50 of the criminal procedure law which purport to reinstate a license during the pendency of an appeal from a conviction resulting in the suspension or revocation of a license shall, for the purposes of such reinstatement, be deemed to be issued in accordance with the provisions of this section and the ninety day stay period authorized by this section shall apply.

§ 1809. Mandatory surcharge and crime victim assistance fee required in certain cases. * 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a crime victim assistance fee and a mandatory surcharge, in addition to any sentence required or permitted by law, in accordance with the following schedule:

(a) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a traffic infraction pursuant to article nine of this chapter, there shall be levied a crime victim assistance fee in the amount of five dollars and a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of twenty-five dollars.

(b) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a misdemeanor or felony pursuant to section eleven hundred ninety-two of this chapter, there shall be levied, in addition to any sentence required or permitted by law, a crime victim assistance fee in the amount of twenty-five dollars and a mandatory surcharge in accordance with the following schedule:

(i) a person convicted of a felony shall pay a mandatory surcharge of three hundred dollars;

(ii) a person convicted of a misdemeanor shall pay a mandatory surcharge of one hundred seventy-five dollars.

(c) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter other than a crime pursuant to section eleven hundred ninety-two of this chapter, or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a crime victim assistance fee in the amount of five dollars and a mandatory

surcharge, in addition to any sentence required or permitted by law, in the amount of fifty-five dollars.

* NB Effective until September 1, 2027

* 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of twenty-five dollars.

* NB Effective September 1, 2027 until July 1, 2028

* 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars.

* NB Effective July 1, 2028 until July 1, 2025

* 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars.

* NB Effective July 1, 2025 until December 1, 2029

* 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a mandatory

surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars.

* NB Effective December 1, 2029

1-a. Notwithstanding the provisions of subdivision one of this section, the provisions of subdivision one of this section shall not apply to an adjudication of liability of owners: (a) for violations of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or (b) for violations of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or (c) for violations of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or (d) for violations of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; or (e) for violations of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local

law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; or (f) for violations of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or (g) for violations of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or (h) for violations of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter.

* 2. Where a person is convicted of two or more such crimes or traffic infractions committed through a single act or omission, or through an act or omission which in itself constituted one of the crimes or traffic infractions and also was a material element of the other, the court or administrative tribunal shall impose a crime victim assistance fee and a mandatory surcharge mandated by subdivision one of this section for each such conviction; provided however, that in no event shall the total amount of such crime victim assistance fees and mandatory surcharges imposed pursuant to paragraph (a) or (c) of subdivision one of this section exceed one hundred ninety-six dollars.

* NB Effective until September 1, 2027

* 2. Where a person is convicted of two or more such crimes or traffic infractions committed through a single act or omission, or through an act or omission which in itself constituted one of the crimes or traffic infractions and also was a material element of the other, the court or administrative tribunal shall impose only one mandatory surcharge mandated by subdivision one of this section.

* NB Effective September 1, 2027

3. The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge the collecting authority shall determine the amount of mandatory surcharge collected and, if it is an administrative tribunal or a town or village justice court, it shall pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund; provided, however, that the comptroller shall deposit such money collected for violations of section eleven hundred seventy-four of this chapter to the credit of the school bus motorist education fund established pursuant to section eighty-nine-j of the state finance law. If such collecting authority is any other court of the unified court system, it shall, within such period, pay such money to the state commissioner of taxation and finance to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law; provided, however, that the state commissioner of taxation and finance shall deposit such money collected for violations of section eleven hundred seventy-four of this chapter to the credit of the school bus motorist education fund established pursuant to section eighty-nine-j of the state finance law. The crime victim assistance fee provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the crime victim assistance fee, the collecting authority shall determine the amount of crime victim assistance fee collected and, if it is an administrative tribunal or a town or village justice court, it

shall pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law.

4. Any person who has paid a mandatory surcharge or crime victim assistance fee under the authority of this section which is ultimately determined not to be required by this section shall be entitled to a refund of such mandatory surcharge or crime victim assistance fee upon application to the state comptroller. The state comptroller shall require such proof as it is necessary in order to determine whether a refund is required by law.

5. When a person who is convicted of a crime or traffic infraction and sentenced to a term of imprisonment has failed to pay the mandatory surcharge or crime victim assistance fee required by this section, the clerk of the court or the administrative tribunal that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such person during his or her term of imprisonment from moneys to the credit of an incarcerated individuals' fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law. Such moneys shall be paid over to the state comptroller to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law, except that any such moneys collected which are surcharges or crime victim assistance fees levied in relation to convictions obtained in a town or village justice court shall be paid within thirty days after the receipt thereof by the superintendent or municipal official of the facility to the justice of the court in which the conviction was obtained. For the purposes of collecting such mandatory surcharge or crime victim assistance fee, the state shall be legally entitled to the money to the credit of an incarcerated individuals' fund or money which is earned by an incarcerated individual in a work release program. For purposes of this subdivision, the term "incarcerated individuals' fund"

shall mean moneys in the possession of an incarcerated individual at the time of his admission into such facility, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with such superintendent or municipal official.

5-a. The provisions of subdivision four-a of section five hundred ten, subdivision three of section five hundred fourteen and subdivision three of section two hundred twenty-seven of this chapter governing actions which may be taken for failure to pay a fine or penalty shall be applicable to a mandatory surcharge or crime victim assistance fee imposed pursuant to this section.

6. Notwithstanding any other provision of this section, where a person has made restitution or reparation pursuant to section 60.27 of the penal law, such person shall not be required to pay a mandatory surcharge or crime victim assistance fee.

7. Notwithstanding any other provision of this section, where a mandatory surcharge or crime victim assistance fee is imposed pursuant to the provisions of section 60.35 of the penal law, no mandatory surcharge or crime victim assistance fee shall be imposed pursuant to the provisions of this section.

8. The provisions of this section shall only apply to offenses committed on or before September first, two thousand twenty-seven.

9. Notwithstanding the provisions of subdivision one of this section, in the event a proceeding is in a town or village court, the court shall add an additional five dollars to the surcharges imposed by such subdivision one of this section.

10. For the purposes of this section, the term conviction means and includes the conviction of a felony or a misdemeanor for which a youthful offender finding was substituted and upon such a finding there shall be levied a mandatory surcharge and a crime victim assistance fee to the same extent and in the same manner and amount provided by this

section for conviction of the felony or misdemeanor, as the case may be, for which such youthful offender finding was substituted.

*** § 1809-a. Mandatory surcharge required in certain cities for parking, stopping and standing violations.** 1. The provisions of any other general or special law notwithstanding, whenever, in a city having a population of one hundred thousand or more according to the nineteen hundred eighty United States census, proceedings in an administrative tribunal or a court result in a finding of liability, or conviction for the violation of any statute, local law, ordinance or rule involving the parking, stopping or standing of a motor vehicle, except an adjudication of liability of an owner for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, there shall be levied a mandatory surcharge in addition to any other sentence, fine or penalty otherwise permitted or required, in the amount of fifteen dollars. Such surcharge shall not be deemed a monetary penalty for the purposes of section two hundred thirty-seven of this chapter or section 19-203 of the administrative code of the city of New York.

2. The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that made the determination of liability. (a) Except as provided in paragraph (b) of this subdivision within the first ten days of the month next succeeding the collection of such surcharge, the collecting authority shall pay seven dollars and fifty cents of each surcharge to the justice court fund held by the state comptroller pursuant to section ninety-nine-a of the state finance law which monies shall then be deposited to the credit of the general fund. Each such payment shall be accompanied by a true and complete report in such form and detail as the comptroller shall prescribe. The remaining amount of the surcharge shall be paid to the chief fiscal officer of the

municipality and used by the municipality from which it originated for its local criminal justice programs and purposes.

(b) Within the first ten days of the month next succeeding the collection of such surcharge, the collecting authority in cities having a population of one hundred thousand or more but less than one million shall pay such surcharge to the chief fiscal officer of the municipality and such surcharge shall be used by the municipality from which it originated for its local criminal justice programs and purposes.

3. Any person who has paid a mandatory surcharge under the authority of this section which is ultimately determined not to be required by this section shall be entitled to a refund of such mandatory surcharge upon written application to the collecting authority. The collecting authority shall require such proof as is necessary in order to determine whether a refund is required by law. If the collecting authority shall refund any portion of the surcharge previously paid to the justice court fund pursuant to subdivision two of this section, the collecting authority may offset an equal amount from a subsequent remittance to the justice court fund, provided, however, that the collecting authority shall prepare such reports and provide such information with respect to such refunds as the comptroller shall direct, and provided, further, that the comptroller, upon review of such reports and information, may direct that any appropriate adjustments be made in future payments to the justice court fund pursuant to subdivision two of this section.

4. Notwithstanding any other provision of this section, where a mandatory surcharge is imposed pursuant to the provisions of section 60.35 of the penal law or section eighteen hundred nine or eighteen hundred nine-b of this article, no mandatory surcharge shall be imposed pursuant to the provisions of this section.

* NB Repealed September 1, 2027

§ 1809-aa. Mandatory surcharge required for certain parking violations. 1. Notwithstanding any other provision of law, whenever proceedings in an administrative tribunal or court result in a conviction for a violation of section twelve hundred, twelve hundred one

or twelve hundred two of this chapter, except an adjudication of liability of an owner for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, there shall be levied a mandatory surcharge in addition to any other sentence, fine or penalty otherwise permitted or required, in the amount of twenty-five dollars.

2. The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the surcharge the collecting authority shall pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund.

§ 1809-b. Mandatory surcharge required for certain violations relating to handicapped parking spaces. 1. Notwithstanding any other provision of law, whenever proceedings in an administrative tribunal or a court result in a finding of liability, or conviction for a violation of section twelve hundred three-a, twelve hundred three-b or twelve hundred three-c of this chapter or any other statute, local law, ordinance or rule involving the parking, stopping or standing of motor vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter, there shall be levied a mandatory surcharge in addition to any other sentence, fine or penalty otherwise permitted or required, in the amount of thirty dollars. Such surcharge shall not be deemed a monetary penalty for the purposes of section two hundred thirty-seven of this chapter or section 19-203 of the administrative code of the city of New York.

2. The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that made the determination of liability. Within the first ten days of the month next succeeding the collection of such surcharge, the collecting authority shall pay fifteen dollars of such surcharge to the chief fiscal officer of the county in which such violation occurred or of the city of New York, for deposit to the credit of the handicapped parking education fund of such county or city established pursuant to section twelve hundred three-g of this chapter which shall be used by such county or city solely for a handicapped parking education program pursuant to such section. The remaining amount of the surcharge shall be paid to the chief fiscal officer of the municipality from which it originated and used by such municipality for its local criminal justice programs and purposes; provided, however, that such municipality shall use ten percent of such funds for developing and implementing a disability awareness program for local law enforcement agencies for the purpose of training local law enforcement personnel to recognize and appropriately respond to persons with disabilities with whom such personnel come into contact in the course of their duties.

§ 1809-c. Additional surcharge required for certain violations relating to driving while intoxicated and driving while impaired. 1. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to section eleven hundred ninety-two of this chapter or subparagraphs (ii) and (iii) of paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of subdivision three of section five hundred eleven of this chapter, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of twenty-five dollars.

2. The additional surcharge provided for in subdivision one of this section shall be paid to the clerk of the court that rendered the conviction. Within the first ten days of the month following collection of the surcharge the collecting authority shall determine the amount of surcharge collected and it shall pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section

one hundred twenty-one of the state finance law to the credit of the general fund; provided, however, commencing April first, two thousand twenty-four, all such moneys shall be paid to counties in such manner and for such purposes as provided for in section eleven hundred ninety-seven of this chapter.

3. The provisions of subdivision three of section two hundred twenty-seven, subdivision four-a of section five hundred ten, and subdivision three of section five hundred fourteen of this chapter governing actions which may be taken for failure to pay a fine or penalty shall be applicable to the additional surcharge imposed pursuant to this section.

4. For the purposes of this section, the term conviction means and includes the conviction of a felony or a misdemeanor for a violation of section eleven hundred ninety-two of this chapter for which a youthful offender finding was substituted and upon such a finding there shall be levied an additional surcharge, in addition to any sentence or other surcharge required or permitted by law, to the same extent and in the same manner and amount provided by this section for conviction of the felony or misdemeanor, as the case may be, for which such youthful offender finding was substituted.

§ 1809-d. Mandatory surcharge for violation of maximum speed limits in highway construction or maintenance work areas. 1. Notwithstanding any other provision of law, whenever proceedings in an administrative tribunal or court result in a finding of liability or conviction for a violation of paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this chapter or any other statute, local law, ordinance or rule involving the maximum speed limits in highway construction or maintenance work areas, there shall be levied a mandatory surcharge in addition to any other sentence, fine or penalty otherwise permitted or required, in the amount of fifty dollars. Such surcharge shall not be deemed a monetary penalty for the purposes of section two hundred thirty-seven of this chapter or section 19-203 of the administrative code of the city of New York.

2. The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that made the determination of liability. Within the first ten days of the month next succeeding the collection of such surcharge, the collecting authority shall pay such money to the state comptroller to be deposited in the highway construction and maintenance safety education fund established by section ninety-nine-n of the state finance law.

§ 1809-e. Additional surcharge required for certain violations. 1. a. Notwithstanding any other provision of law, whenever proceedings in a court or an administrative tribunal of this state result in a conviction for an offense under this chapter, except a conviction pursuant to section eleven hundred ninety-two of this chapter, or for a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, except: (i) a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists; and (ii) an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; and (iii) an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; and (iv) an adjudication of liability of an owner for a violation of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and

operation of bus lane photo devices, in accordance with article twenty-four of this chapter; and (v) an adjudication of liability of an owner for a violation of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; and (vi) an adjudication of liability of an owner for a violation of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; and (vii) an adjudication of liability of an owner for a violation of section three hundred eighty-five of this chapter and the rules of the applicable covered agency or covered authority as such terms are defined in article ten of this chapter in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; and (viii) an adjudication of liability of an owner for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; and (ix) an adjudication of

liability of an owner for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, there shall be levied in addition to any sentence, penalty or other surcharge required or permitted by law, an additional surcharge of twenty-eight dollars.

b. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to section eleven hundred ninety-two of this chapter or subparagraphs (ii) and (iii) of paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of subdivision three of section five hundred eleven of this chapter, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of one hundred seventy dollars.

2. The additional surcharges provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of such surcharges, the collecting authority shall pay such money to the state comptroller to be deposited to the general fund; provided, however, commencing April first, two thousand twenty-four, the surcharge provided for in paragraph b of subdivision one of this section shall be paid to counties in such manner and for such purposes as provided for in section eleven hundred ninety-seven of this chapter.

3. The provisions of subdivision four-a of section five hundred ten, subdivision three of section five hundred fourteen and subdivision three of section two hundred twenty-seven of this chapter governing actions which may be taken for failure to pay a fine or penalty shall be applicable to the additional surcharge imposed pursuant to this section.

§ 1810. Compensation of officers shall not depend upon apprehension or arrests. (a) No city or village shall employ any officer, agent or person whose compensation shall in any way depend upon the apprehension or arrest of any person or persons for violating any ordinance adopted pursuant to section sixteen hundred four of this chapter or for reckless driving as defined in section twelve hundred twelve of this chapter. If any person be apprehended or arrested or haled before a magistrate for a violation of a local ordinance adopted pursuant to section sixteen hundred four or for reckless driving as defined by section twelve hundred twelve of this chapter by any officer, agent or employee of any city or village who is so employed, the fact of such employment at the time shall be a defense to any charge made for violation of such ordinance or for reckless driving.

(b) No county or town shall employ any officer, agent or person, whether such employee be elected or appointed, whose compensation shall in any way depend upon the apprehension or arrest of any person for reckless driving as defined in section twelve hundred twelve of this chapter. If any person be apprehended or arrested or haled before a magistrate for reckless driving as so defined, by any officer, agent or employee of any county or town who is so employed, the fact of such employment at the time shall be a defense to any charge made for reckless driving as defined in section twelve hundred twelve of this chapter.

TITLE X

UNIFORM VEHICLE CERTIFICATE OF TITLE ACT

Article 46. Uniform vehicle certificate of title act.

ARTICLE 46

UNIFORM VEHICLE CERTIFICATE OF TITLE ACT

Section 2101. Definitions.
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2103. Excepted liens and security interests; buyer from manufacturer or dealer.
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2105. Application for first certificate of title.
2105-a. Liens on motor vehicles for failure to make child support payments.
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§ 2101. Definitions. Except when the context otherwise requires, as used in this article:

(a) "Dealer" means a person registered as a dealer under section four hundred fifteen or twenty-two hundred fifty-seven of this chapter.

(b) "Commissioner" includes the office and a branch office of the commissioner and, when authorized to receive a document or fee as agent of the commissioner, the clerk of a county.

(c) "Identifying number" means the numbers, and letters if any, on a vehicle designated by the commissioner for the purpose of identifying the vehicle.

(d) "Implement of husbandry" means a vehicle designed and adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.

(e) "Lienholder" means a person holding a security interest in a vehicle.

(f) To "mail" means to deposit in the United States mail properly addressed and with postage prepaid.

(g) "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

(h) "Person" means a natural person, firm, co-partnership, association or corporation.

(i) "Pole trailer" means a vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as logs, poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(j) "Security agreement" means a written agreement which reserves or creates a security interest.

(k) "Security interest" means an interest in a vehicle reserved or

created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. The term also includes an interest in a vehicle pursuant to a lien arising under section two hundred eleven of the lien law and section one hundred eleven-u of the social services law. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions.

(l) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property upon a highway and only incidentally operated or moved over a highway, which if registered would be registered pursuant to schedule F of subdivision seven of section four hundred one of this chapter.

(m) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada.

(n) "Vehicle" means a vehicle as defined in section one hundred fifty-nine of this chapter except that it shall not include a device for which a registration is denied pursuant to section four hundred-a of this chapter and, except with respect to section twenty-one hundred two of this article, shall also mean a vessel as defined in section twenty-two hundred fifty of this chapter. Unless otherwise specified, "vehicle" also means a "mobile home" or a "manufactured home" as defined in section one hundred twenty-two-c of this chapter.

§ 2102. Exclusions. (a) The following are excluded from the provisions of this title:

(1) A vehicle owned by the United States unless it is registered in this state;

(2) A vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing or demonstration; or a vehicle used by a manufacturer solely for testing other than: (i) a vehicle registered by a dealer or manufacturer, or (ii) a vehicle for which a physical examination is required under section four hundred thirty of this chapter before a certificate of title may be issued, or (iii) a vehicle held for sale by a dealer which was purchased by the dealer as a result of sale upon

repossession or a sale by a sheriff or marshall to satisfy a judgment, or (iv) a vehicle held for sale by a dealer for which a certificate of title containing an error attributable to processing by the department has been issued, or (v) a vehicle held for sale by a dealer for which ordinarily acceptable proof of ownership cannot be obtained by the dealer with reasonable diligence but for which a certificate of title would ordinarily be issued upon the filing of a bond with the commissioner as prescribed in subdivision (d) of section twenty-one hundred five of this article, or (vi) a vehicle for which a manufacturer or dealer has submitted a notice of repurchase as required by subdivision two of section four hundred seventeen-a of this chapter and regulations of the commissioner, or (vii) a vehicle held for sale by a dealer which was purchased by a dealer as the result of a sale by a police department, or (viii) a vehicle held for sale by a dealer which was purchased by a dealer as the result of a sale by the United States government;

(3) A vehicle owned by a non-resident of this state and not required by law to be registered in this state provided, however, that a certificate of title may be issued to such a non-resident for a vehicle purchased by or transferred to such non-resident as a result of a sale after repossession, or a sale by a sheriff or marshall to satisfy a judgement, or a sale to foreclose a garageman's lien, provided such sale was held in this state, or a result of the settlement of an estate of a deceased if such settlement is pursuant to the estates, powers and trusts law of this state or a sale by a police department, provided such sale was held in this state;

(4) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective certificate of title has been issued in another state;

(5) A vehicle moved solely by animal power;

(6) An implement of husbandry;

(7) Special mobile equipment;

(8) A self-propelled wheel chair or an adapted tricycle operated or driven by a person with a disability;

(9) A pole trailer or a trailer with an unladen weight of less than one thousand pounds;

(10) A vehicle manufactured prior to July first, nineteen hundred

seventy-two and designated by the manufacturer as being a nineteen hundred seventy-two or earlier model year vehicle, and any vehicle manufactured or assembled prior to January first, nineteen hundred seventy-three for which the manufacturer or assembler has not designated a model year;

(11) Snowmobiles, off-highway motorcycles and limited use motorcycles;

(12) A motor vehicle set off to a surviving spouse or surviving minor child pursuant to section 5-3.1 of the estates, powers and trusts law until an application for registration is made by such survivor or until after the survivor transfers the vehicle, in which case the transferee must apply for a certificate of title;

(13) A vessel not required to be registered in this state and which is not registered in this state;

(14) A vessel designated by the manufacturer as being a nineteen hundred eighty-six or earlier model year vessel and any vessel manufactured or assembled prior to August first, nineteen hundred eighty-six for which the manufacturer or assembler has not designated a model year;

(15) Any vessel having a valid marine document issued by the United States or a foreign government;

(16) Any vessel under fourteen feet in length;

(17) A vehicle owned or leased by the state of New York and regularly utilized or intended to be utilized for undisclosed or undercover law enforcement purposes;

(18) A vehicle owned by a non-resident of this state for which a currently effective certificate of title has been issued in another state and which is leased to a resident of, and registered in, this state.

(19) A mobile home or a manufactured home, manufactured prior to July first, nineteen hundred ninety-four and designated by the manufacturer as being a nineteen hundred ninety-four or earlier model year mobile home or manufactured home, and any mobile home or manufactured home manufactured or assembled prior to January first, nineteen hundred ninety-four for which the manufacturer has not designated a model year.

(c) A person engaged in the business of selling vehicles who does not place such vehicles in his own consumer use and who is not required to be registered as a dealer under section four hundred fifteen of this

chapter, shall not be deemed a dealer with respect to such vehicles and shall not be required to apply for or receive a certificate of title for any such vehicles. A local authority, which acquires title to a vehicle or vehicles under the provisions of section twelve hundred twenty-four of this chapter, and which does not place such vehicle or vehicles in its own consumer use shall not be required to apply for or receive a certificate of title for any such vehicle or vehicles.

(d) No certificate of title shall be issued to a vehicle excluded from the provisions of this article.

(e) The commissioner may, by regulation, exclude from the provisions of this title vehicles designated by the manufacturer as being of a model year more than nine years prior to the current calendar year. The commissioner may provide that such exclusion shall apply to all such vehicles or to any categories or classes of such vehicles.

§ 2103. Excepted liens and security interests; buyer from manufacturer or dealer. This article does not apply to or affect:

(a) A lien given by statute or rule of law to a supplier of services or materials for the vehicle;

(b) A lien given by statute to the United States, this state, or any political subdivision of this state except for liens arising pursuant to section two hundred eleven of the lien law and section one hundred eleven-u of the social services law;

(c) A security interest in a vehicle created by a manufacturer or dealer who holds the vehicle for sale as distinguished from a person who holds the vehicle for lease, but a buyer in ordinary course of business from a manufacturer or a dealer who holds the vehicle for sale, whether or not he may have held it for lease, takes free of any security interest created by him in the vehicle.

(d) A security interest in a vehicle acquired by the state of New York and financed by certificates of participation pursuant to article five-A of the state finance law.

§ 2104. Certificate of title required. (a) Every owner of a vehicle which is in this state and is not excluded from provisions of this title

by section two thousand one hundred two of this article, and for which no certificate of title has been issued by the commissioner shall make application to the commissioner for a certificate of title of the vehicle within thirty days after transfer to him of the vehicle; provided, however, that a person may, but need not, make application to the commissioner for a certificate of title for a fire truck designed, used and maintained for fire service purposes and the transportation of property in connection therewith owned and identified as being owned by the state, a public authority, a county, town, city, village or fire district, or a fire corporation subject to the provisions of paragraph (e) of section fourteen hundred two of the not-for-profit corporation law, or a fire company as defined in section one hundred of the general municipal law.

(b) The commissioner shall not register or renew the registration of a vehicle unless a certificate of title has been issued by the commissioner to the owner or an application therefor has been made by the owner and delivered to the commissioner.

§ 2105. Application for first certificate of title. (a) The application for the first certificate of title of a vehicle in this state shall be made by the owner to the commissioner on the form he prescribes and shall contain or be accompanied by:

(1) The name, residence and mail address and social security number of the owner;

(2) A description of the vehicle including, so far as the following data exists: its make, year model, identifying number, type of body if a motor vehicle or hull material if a vessel, and whether new or used, and any other information required by the commissioner;

(3) The date of purchase by applicant, the name and address of the person from whom the vehicle was acquired and the names and addresses of any lienholders in the order of their apparent priority;

(4) A statement signed by the applicant, stating either, (i) any facts or information known to him that could reasonably affect the validity of the title of the vehicle or the existence or non-existence of security interests in it; or (ii) that no such facts or information are known to him; and

(5) Any other information and documents the commissioner reasonably requires to identify the vehicle and to enable him to determine whether the owner is entitled to a certificate of title and the existence or non-existence of security interests in the vehicle.

(b) If the application refers to a vehicle purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and be signed by the dealer as well as the owner, and the dealer shall promptly mail or deliver the application to the commissioner.

(c) If the application refers to a vehicle last previously registered or licensed in another state or country, the application shall contain or be accompanied by:

(1) Any certificate of title issued by the other state or country;

(2) Any other information and documents the commissioner reasonably requires to establish the ownership of the vehicle and the existence or non-existence of security interests in it.

(d) If the commissioner is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the commissioner may register the vehicle but shall either: (1) withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the commissioner as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or (2) as a condition of issuing a certificate of title, require the applicant to file with the commissioner a bond prescribed by the commissioner and executed by the applicant, and by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the commissioner and conditioned to indemnify any prior owner and lienholder and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall

be returned at the end of three years or prior thereto if the currently valid certificate of title is surrendered to the commissioner, but it shall not be returned prior to the end of three years if the commissioner has been notified of the pendency of an action to recover on the bond or if the currently valid certificate of title was surrendered to another state as proof of ownership to obtain a certificate of title from that state. Nothing contained herein shall require the commissioner of motor vehicles to issue a certificate of title upon the presentation of a bond.

§ 2105-a. Liens on motor vehicles for failure to make child support payments. (a) The commissioner, on behalf of the department, shall enter into a written agreement with the commissioner of the office of temporary and disability assistance which shall set forth the procedures for creation of security interests on vehicles in favor of the office of temporary and disability assistance, a social services district or its authorized representative as provided for in section two hundred eleven of the lien law and section one hundred eleven-u of the social services law.

(b) Such agreement shall include:

(1) the procedures under which the office of temporary and disability assistance shall notify the department of a security interest arising for failure to make payments of child support or combined child and spousal support, including data standards for determining that the person against whom such lien will be imposed is the person owing such arrears;

(2) the procedures under which the office of temporary and disability assistance shall notify the department that an individual has satisfied the security interest;

(3) the procedure, subject to the approval of the director of the division of the budget, for reimbursement of the department and its agents for the additional costs of carrying out the procedures authorized by this section, section two hundred eleven of the lien law and section one hundred eleven-u of the social services law;

(4) such other matters as the parties to such agreement shall deem necessary to carry out the provisions of this section, section two

hundred eleven of the lien law and section one hundred eleven-u of the social services law.

(c) A security interest arising under section two hundred eleven of the lien law and entered into the records of the department pursuant to this article shall be listed on any subsequent certificate of title issued to such person for the same or any other vehicle.

(d) Notwithstanding any other inconsistent provision of law, any purchaser of a vehicle which is subject to a security interest under this section, including a motor vehicle dealer registered under section four hundred fifteen of this chapter, shall take such vehicle unencumbered by such lien which was not recorded on the certificate of title used to transfer the vehicle.

§ 2106. Examination of records. The commissioner, upon receiving application for a first certificate of title, shall check the identifying number of the vehicle and the name or other identifier of the owner shown in the application against the appropriate records of vehicles required to be maintained.

§ 2107. Issuance and records. (a) The commissioner shall file each application received and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of title of the vehicle, except that the commissioner may require that any such vehicle be inspected in a manner prescribed by him for conformity to the description given in the application before he issues a certificate of title.

(b) The commissioner shall maintain a record of all certificates of title issued by him:

(1) Under a distinctive title number assigned to the vehicle;

(2) Under the identifying number of the vehicle;

(3) Alphabetically, under the name of the owner, unless he maintains alphabetical records of all owners holding certificates of registration;

(4) Under the registration number of the vehicle; and

(5) In the discretion of the commissioner, in any other method he

determines.

(c) When the commissioner issues a certificate of title for a vehicle as a result of an original application for a title or as a result of the filing of a security interest, he shall also issue and mail to the lienholder or lienholders named in the original application, or to the lienholder who filed the subsequent security interest a notice of recorded lien.

* (d) The commissioner shall not issue a certificate of title to a manufactured home with respect to which there has been filed an affidavit of affixation pursuant to paragraph five of subdivision (a) of section twenty-one hundred seventeen-a of this article, paragraph five of subdivision (a) of section twenty-one hundred seventeen-b of this article, and paragraph five of subdivision (a) of section twenty-one hundred seventeen-c of this article.

* NB Effective December 12, 2026

* (e) The commissioner shall file, upon receipt, each affidavit of affixation that is delivered in accordance with subdivision (b) of section three hundred forty-four-b of the real property law and each declaration that is delivered pursuant to paragraph six of subdivision (a) of section twenty-one hundred seventeen-c of this article when satisfied as to its genuineness and regularity.

* NB Effective December 12, 2026

* (f) The commissioner shall maintain a record of each affidavit of affixation the commissioner files in accordance with subdivision (e) of this section. The record shall state the vehicle information or serial number of the manufactured home, the county of recordation, the date of recordation, the book and page number of each book of deeds where there has been recorded an affidavit of affixation pursuant to paragraph (iii) of subdivision (a) of section three hundred forty-four-b of the real property law and this article, and if applicable, a statement that filed with the affidavit of affixation is a declaration pursuant to paragraph six of subdivision (a) of section twenty-one hundred seventeen-c of this article, and any other data the commissioner prescribes.

* NB Effective December 12, 2026

* (g) The commissioner shall file, upon receipt, each application for surrender of the manufacturer's certificate of origin relating to a manufactured home that is delivered in accordance with section

twenty-one hundred seventeen-a of this article, when satisfied as to its genuineness and regularity.

* NB Effective December 12, 2026

* (h) The commissioner shall maintain a record of each manufactured home manufacturer's certificate of origin that the commissioner accepts for surrender as provided in section twenty-one hundred seventeen-a of this article. The record shall state the vehicle information or serial number of the manufactured home, the date the manufacturer's certificate of origin was delivered for surrender, the county of recordation, the date of recordation, and the book and page number of each book of deeds where there has been recorded an affidavit of affixation pursuant to paragraph (iii) of subdivision (a) of section three hundred forty-four-b of the real property law and this article, and any other data the commissioner prescribes.

* NB Effective December 12, 2026

* (i) The commissioner shall file, upon receipt, each application for surrender of the certificate of title relating to a manufactured home that is delivered in accordance with section twenty-one hundred seventeen-b of this article, when satisfied as to its genuineness and regularity.

* NB Effective December 12, 2026

* (j) The commissioner shall maintain a record of each manufactured home certificate of title that the commissioner accepts for surrender as provided in section twenty-one hundred seventeen-b of this article. The record shall state the vehicle information or serial number of the manufactured home, the date the certificate of title was delivered for surrender, the county of recordation, the date of recordation, the book and page number of each book of deeds where there has been recorded an affidavit of affixation pursuant to paragraph (iii) of subdivision (a) of section three hundred forty-four-b of the real property law and this article, and any other data the commissioner prescribes.

* NB Effective December 12, 2026

* (k) The commissioner shall file, upon receipt, each application for confirmation of conversion relating to a manufactured home that is delivered in accordance with section twenty-one hundred seventeen-c of this article, when satisfied as to its genuineness and regularity.

* NB Effective December 12, 2026

* (l) The commissioner shall maintain a record of each application for confirmation of conversion accepted as provided in section twenty-one hundred seventeen-c of this article. The record shall state the vehicle information or serial number of the manufactured home, the county of recordation, the date of recordation, the book and page number of each book of deeds where there has been recorded an affidavit of affixation pursuant to paragraph (iii) of subdivision (a) of section three hundred forty-four-b of the real property law and this article, and any other data the commissioner prescribes.

* NB Effective December 12, 2026

* (m) Notwithstanding the provisions of any other law, the commissioner shall maintain the records required by this section indefinitely.

* NB Effective December 12, 2026

* (n) The commissioner shall establish electronic public access to the records maintained in accordance with subdivisions (f), (h), (j) and (l) of this section.

* NB Effective December 12, 2026

§ 2108. Contents and effect. (a) Each certificate of title issued by the commissioner shall contain:

(1) The date issued;

(2) The name and address of the owner;

(3) The names and addresses of any lienholders, in the order of their apparent priority as shown on the application or, if the application is based on a certificate of title, as shown on the certificate;

(4) The title number assigned to the vehicle;

(5) A description of the vehicle including, so far as the following data exists: its make, year model, identifying number, type of body if a motor vehicle or hull material if a vessel, and whether new or used, and any other information required by the commissioner; and

(6) Any other data the commissioner prescribes.

(b) The certificate of title shall contain forms for assignment and warranty of title by the owner, and for assignment and warranty of title by a dealer, and may contain forms for applications for a certificate of title by a transferee, the naming of a lienholder and the assignment or

release of the security interest of a lienholder.

(c) A certificate of title issued by the commissioner is prima facie evidence of the facts appearing on it.

(d) A certificate of title for a vehicle is not subject to garnishment, attachment, execution or other judicial process, but this subsection does not prevent a lawful levy upon the vehicle.

* (e) Notwithstanding any other provision of law, a certificate of title to a vehicle which is a mobile home or a manufactured home issued by the commissioner is prima facie evidence of the facts appearing on it, notwithstanding the fact that such vehicle, at any time, in any manner, shall have become attached to realty.

* NB Effective until December 12, 2026

* (e) Notwithstanding any other provision of law, a certificate of title to a vehicle which is a manufactured home issued by the commissioner is prima facie evidence of the facts appearing on it, notwithstanding the fact that such vehicle, at any time, in any manner, shall have become affixed in any manner to real property.

* NB Effective December 12, 2026

§ 2109. Delivery. The certificate of title shall be mailed to the owner.

§ 2110. Registration without certificate of title. If the commissioner is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the commissioner may register the vehicle but shall withold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the commissioner as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it.

§ 2111. Refusing certificate of title. The commissioner shall refuse issuance of a certificate of title if any required fee is not paid or if he has reasonable grounds to believe that:

(a) The applicant is not the owner of the vehicle;

(b) The application contains a false or fraudulent statement; or

(c) The applicant fails to furnish required information or documents or any additional information the commissioner reasonably requires.

§ 2112. Lost, stolen or mutilated certificates. (a) If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, as shown by the records of the commissioner, shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the commissioner. Unless the original certificate of title is surrendered to the commissioner, the duplicate certificate of title shall contain the legend "This is a duplicate certificate and may be subject to the rights of a person under the original certificate." It shall be mailed to the owner.

(b) A person recovering an original certificate of title for which a duplicate has been issued shall promptly notify the commissioner of such recovery and shall comply with the directions of the commissioner relating to the disposition of such documents.

§ 2113. Transfer. (a) If an owner transfers his interest in a vehicle, other than by the creation of a security interest, he shall, at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate or as the commissioner prescribes, and cause the certificate and assignment to be mailed or delivered to the transferee. The assignment and warranty of title required by this section shall include a statement signed by the transferor stating either, (i) any facts or information known to him that could reasonably affect the validity of the title of the vehicle; or, (ii) that no such facts or information are known to him.

(b) Except as provided in section two thousand one hundred fourteen, the transferee shall, within thirty days after transfer to him of the vehicle, execute the application for a new certificate of title in the space provided therefor on the certificate or as the commissioner prescribes, and cause the certificate and application to be mailed or

delivered to the commissioner. The application required by this section shall include a statement similar to that required to be included in an application for a first certificate of title by paragraph (4) of subdivision (a) of section two thousand one hundred five of this chapter.

(c) Except as provided in section two thousand one hundred fourteen, a transfer by an owner is not perfected so as to be valid against third parties generally until the provisions of this section and section two thousand one hundred sixteen have been complied with; however, an owner who has delivered possession of the vehicle to a bona fide transferee and has complied with the provisions of this section and section two thousand one hundred sixteen is not deemed an owner within the provisions of section three hundred eighty-eight of this chapter, and, notwithstanding any other provision of law, shall not be presumed to have caused such vehicle to be abandoned for purposes of subdivision seven of section twelve hundred twenty-four of this chapter if the owner has retained a copy of the assignment and warranty of title. Failure to retain such copy shall not preclude such owner from rebutting any presumption contained in such subdivisions.

§ 2114. Transfer to or from dealer; records. (a) If a dealer buys a vehicle and holds it for resale and procures the certificate of title from the owner within ten days after delivery to him of the vehicle, he need not send the certificate to the commissioner but, upon transferring the vehicle to another person other than by the creation of a security interest, shall promptly execute the assignment and warranty of title by a dealer, showing the names and addresses of the transferee and of any lienholder holding a security interest created or reserved at the time of the resale, in the spaces provided therefor on the certificate or as the commissioner prescribes, and mail or deliver the certificate to the commissioner with the transferee's application for a new certificate. The assignment and warranty of title by a dealer required by this section shall include a statement, signed by the dealer stating either (i) any facts or information known to him that could reasonably affect the validity of the title of the vehicle, or (ii) that no such facts or information are known to him.

(b) Every dealer shall maintain a record in the form and for a period of time the commissioner prescribes of every vehicle bought, sold or exchanged by him, or received by him for sale or exchange, which shall be open to inspection by a representative of the commissioner, a peace officer, when acting pursuant to his special duties, or a police officer during reasonable business hours.

§ 2115. Transfer by operation of law. (a) If the interest of an owner in a vehicle passes to another other than by voluntary transfer, the transferee shall, except as provided in subdivision (b), promptly mail or deliver to the commissioner the last certificate of title, if available, proof of the transfer, and his application for a new certificate in the form the commissioner prescribes.

(b) If the interest of the owner is terminated or the vehicle is sold under a security agreement by a lienholder, the transferee shall promptly mail or deliver to the commissioner the last certificate of title if available to him, his application for a new certificate in the form the commissioner prescribes, and an affidavit made by or on behalf of the lienholder that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement. If the lienholder succeeds to the interest of the owner and holds the vehicle for resale, he need not secure a new certificate of title but, upon transfer to another person, shall promptly mail or deliver to the transferee the certificate, if available, affidavit and other documents required to be sent to the commissioner by the transferee.

(c) A person holding a certificate of title whose interest in the vehicle has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the commissioner upon request of the commissioner. The delivery of the certificate pursuant to the request of the commissioner does not affect the rights of the person surrendering the certificate, and the action of the commissioner in issuing a new certificate of title as provided herein is not conclusive upon the rights of an owner or lienholder named in the old certificate.

§ 2116. Additional requirements for applications. (a) An application for a certificate of title shall be accompanied by the required fee when mailed or delivered to the commissioner.

(b) Except as provided for in subdivision (c) of this section, an application for the naming of a lienholder or his assignee on a certificate of title shall be accompanied by the required fee when mailed or delivered to the commissioner.

(c) The filing of a notice of lien by the office of temporary and disability assistance, or a local social services district, or its authorized representative, or a lien of another state agency operating under title IV-D of the social security act, shall constitute an application for the naming of a lienholder on a certificate of title. The filing of an application by any such agency shall be completed without payment of a fee.

§ 2117. When commissioner to issue new certificate. (a) The commissioner, upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other documents required by law, shall check the identifying number of the vehicle against the appropriate records of vehicles required to be maintained, issue a new certificate of title in the name of the transferee as owner and mail it to the owner.

(b) The commissioner, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee and any other documents required by law, shall check the identifying number of the vehicle against the appropriate records of vehicles required to be maintained, issue a new certificate of title in the name of the transferee as owner and mail it to the owner. If the outstanding certificate of title is not delivered to the commissioner, he shall demand it from the holder thereof.

(c) The commissioner may require that any vehicle for which an application for a certificate of title is made be inspected in a manner prescribed by him for conformity to the description given in the application before he issues a certificate of title.

*** § 2117-a. Surrender of manufacturer's certificate of origin to a manufactured home.** (a) The owner or owners of a manufactured home who possess the manufacturer's certificate of origin to the manufactured home that is affixed to a permanent foundation as provided in subdivision (a) of section three hundred forty-four-b of the real property law, or which the owner or owners intend to affix to a permanent foundation, may surrender the manufacturer's certificate of origin to the manufactured home to the commissioner by filing with the commissioner an application for surrender of the manufacturer's certificate of origin containing or accompanied by:

(1) the name, residence and mailing address of the owner;

(2) a description of the manufactured home including, so far as the following data exists: the name of the manufacturer, the make, the model name, the model year, the dimensions, and the vehicle identification number or numbers of the manufactured home and whether it is new or used, and any other information the commissioner requires;

(3) the date of purchase by the owner of the manufactured home, the name and address of the person from whom the home was acquired and the names and addresses of any lienholders in the order of apparent priority;

(4) a statement signed by the owner, stating either, (i) any facts or information known to the owner that could reasonably affect the validity of the title of the manufactured home or the existence or non-existence of security interests in or lien on it; or (ii) that no such facts or information are known to the owner;

(5) the recorded original affidavit of affixation as provided by paragraph (iii) of subdivision (a) of section three hundred forty-four-b of the real property law;

(6) the original manufacturer's certificate of origin;

(7) the name and mailing address of each person wishing written acknowledgment of surrender from the commissioner; and

(8) any other information and documents the commissioner reasonably requires to identify the owner of the manufactured home and to enable the commissioner to determine whether the owner satisfied the requirements of subdivision (a) of section three hundred forty-four-b of

the real property law and the owner is entitled to surrender the manufacturer's certificate of origin and the existence or non-existence of security interests in the manufactured home.

(b) When satisfied as to its genuineness and regularity of the surrender of the manufacturer's certificate of origin to a manufactured home and upon satisfaction of the requirements of subdivision (a) of this section, the commissioner shall cancel the manufacturer's certificate of origin and update the commissioner's records in accordance with the provisions of subdivisions (g) and (h) of section twenty-one hundred seven of this article and provide written acknowledgment of compliance with the provisions of this section to each person identified in paragraph seven of subdivision (a) of this section.

(c) Upon satisfaction of the requirements of this section a manufactured home shall be conveyed and encumbered as provided in section three hundred forty-four-g of the real property law.

(d) Upon written request, the commissioner shall provide written acknowledgment of compliance with the provisions of this section.

* NB Effective December 12, 2026

*** § 2117-b. Surrender of title to a manufactured home.** (a) The owner or owners of a manufactured home that is covered by a certificate of title and that is affixed to a permanent foundation as provided in section three hundred forty-four-a of the real property law, or which the owner or owners intend to affix to a permanent foundation, may surrender the certificate of title to the manufactured home to the commissioner by filing with the commissioner an application for surrender of title containing or accompanied by:

(1) the name, residence and mailing address of the owner;

(2) a description of the manufactured home including, so far as the following data exists: the name of the manufacturer, the make, the model name, the model year, the dimensions, and the vehicle identification number or numbers of the manufactured home and whether it is new or used and any other information the commissioner requires;

(3) the date of purchase by the owner of the manufactured home, the name and address of the person from whom the home was acquired and the names and addresses of any security interest holders and lienholders in

the order of apparent priority;

(4) a statement signed by the owner, stating either: (i) any facts or information known to the owner that could reasonably affect the validity of the title of the manufactured home or the existence or non-existence of security interests in or liens on it; or (ii) that no such facts or information are known to the owner;

(5) the recorded original affidavit of affixation as provided by paragraph (iii) of subdivision (a) of section three hundred forty-four-b of the real property law;

(6) the name and mailing address of each person wishing written acknowledgment of surrender from the commissioner;

(7) the original certificate of title, which, upon concurrent transfer of title to the manufactured home, may be endorsed by the current owner of record to the purchaser;

(8) any release of lien required by subdivision (b) of this section; and

(9) any other information and documents the commissioner reasonably requires to identify the owner of the manufactured home, to determine whether the owner satisfied the applicable requirements of section three hundred forty-four-f of the real property law, and to enable the commissioner to determine whether the owner is entitled to surrender the certificate of title and the existence or non-existence of security interests in or liens on the manufactured home.

(b) The commissioner shall not accept for surrender a certificate of title to a manufactured home unless and until any liens pursuant to section twenty-one hundred five-a and any security interests pursuant to sections twenty-one hundred seven and twenty-one hundred eighteen of this article have been released.

(c) When satisfied as to its genuineness and regularity of the surrender of a certificate of title to a manufactured home and upon satisfaction of the requirements of subdivisions (a) and (b) of this section, the commissioner shall cancel the certificate of title and update the commissioner's records in accordance with the provisions of subdivisions (i) and (j) of section twenty-one hundred seven of this article. The commissioner shall also provide written acknowledgment of compliance with the provisions of this section to each person identified on the application for surrender of a certificate of title under

paragraph six of subdivision (a) of this section.

(d) Upon satisfaction of the requirements of this section a manufactured home shall be conveyed and encumbered as provided in section three hundred forty-four-g of the real property law.

(e) Upon written request, the commissioner shall provide written acknowledgment of compliance with the provisions of this section.

* NB Effective December 12, 2026

*** § 2117-c. Confirmation of conversion of a manufactured home.** (a) The owner or owners of a manufactured home that is not covered by a certificate of title or a manufacturer's certificate of origin, or of a manufactured home that is covered by a manufacturer's certificate of origin or certificate of title but which the owner or owners, after diligent search and inquiry, are unable to produce, and that is affixed to a permanent foundation, or which the owner intends to affix to a permanent foundation, may satisfy the requirements of subdivision (b) of section three hundred forty-four-b of the real property law by filing with the commissioner an application for confirmation of conversion containing or accompanied by:

(1) the name, residence and mailing address of the owner;

(2) a description of the manufactured home including, so far as the following data exists: the name of the manufacturer, the make, the model name, the model year, the dimensions, and the vehicle identification number or numbers of the manufactured home and whether it is new or used and any other information the commissioner requires;

(3) the date of purchase by the owner of the manufactured home, the name and address of the person from whom the home was acquired and the names and addresses of any security interest holders and lienholders in the order of apparent priority;

(4) a statement signed by the owner, stating either: (i) any facts or information known to the owner that could reasonably affect the validity of the title of the manufactured home or the existence or non-existence of security interests in or liens on it; or (ii) that no such facts or information are known to the owner;

(5) the recorded original of the affidavit of affixation as provided by paragraph (iii) of subdivision (a) of section three hundred

forty-four-b of the real property law;

(6) a sworn declaration by an attorney at law, duly admitted to practice in the courts of the state of New York, or an agent of a title insurance company duly licensed to issue policies of title insurance in the state of New York, that the manufactured home is free and clear of or has been released or will be released from all recorded security interests, liens and encumbrances; and: (i) any facts or information known to the attorney or agent that could reasonably affect the validity of the title of the manufactured home or the existence or non-existence of security interests in it; or (ii) that no such facts or information are known to the attorney or agent; and

(7) the name and mailing address of each person wishing written acknowledgment of confirmation of conversion from the commissioner; and

(8) any other information and documents the commissioner reasonably requires to identify the owner of the manufactured home and to determine the owner satisfied the applicable requirements of section three hundred forty-four-b of the real property law, and the existence or non-existence of security interests in or liens on the manufactured home.

(b) When satisfied as to its genuineness and regularity of the confirmation of conversion of a manufactured home and upon satisfaction of the requirements of subdivision (a) of this section, the commissioner shall update the commissioner's records in accordance with the provisions of subdivisions (f), (k) and (l) of section twenty-one hundred seven of this article. The commissioner shall also provide written acknowledgment of compliance with the provisions of this section to each person identified on the application for confirmation of conversion under paragraph seven of subdivision (a) of this section.

(c) Upon satisfaction of the requirements of this section a manufactured home shall be conveyed and encumbered as provided in section three hundred forty-four-g of the real property law.

(d) Upon written request, the commissioner shall provide written acknowledgment of compliance with the provisions of this section.

* NB Effective December 12, 2026

§ 2118. Perfection of security interests. (a) Unless excepted by

section two thousand one hundred three of this title, a security interest in a vehicle of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or lienholders of the vehicle without knowledge of the security interest unless perfected as provided in this section. A purchase money security interest in a vehicle is perfected against the rights of judicial lien creditors and execution creditors on and after the date such purchase money security interest is created.

(b) (1) A security interest is perfected:

(A) By the delivery to the commissioner of (i) the existing certificate of title, if any, an application for a certificate of title containing the name and address of the lienholder and the required fee or (ii) a notice of lien evidencing a lien arising under section two hundred eleven of the lien law and section one hundred eleven-u of the social services law;

(B) As of the time of its creation if the delivery is completed within ten days thereafter, otherwise, as of the time of delivery.

(2) A security interest in a vehicle provided for in a security agreement made by a person before he becomes the owner of the vehicle or arising under section two hundred eleven of the lien law and section one hundred eleven-u of the social services law:

(A) Is deemed to be created at the time of the sale or transfer of the vehicle to him;

(B) If not perfected under paragraph one of this subdivision is perfected by the lienholder delivering to the commissioner a notice of security interest in the form the commissioner prescribes and the required fee or a notice of lien, but only if the delivery is completed before the commissioner issues a certificate of title of the vehicle containing the name of the owner as owner;

(C) If so perfected, is perfected as of the time of the sale or transfer of the vehicle to him if the delivery is completed within ten days thereafter, otherwise, as of the time of delivery;

(D) Is subject and subordinate to a security interest, perfected in accordance with paragraph one of this subdivision, of a lienholder without knowledge of it.

(3) The commissioner shall file each notice of security interest delivered to him with the required fee and shall maintain a record,

under the identifying number of the vehicles, of all notices of security interests filed by him.

(4) The commissioner shall file each notice of lien delivered to him and shall maintain a record pursuant to the agreement set forth in section twenty-one hundred five-a of this article.

(c) If a vehicle is subject to a security interest when brought into this state, the validity of the security interest is determined by the law of the jurisdiction where the vehicle was when the security interest attached, subject to the following:

(1) If the parties understood at the time the security interest attached that the vehicle would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity of the security interest in this state is determined by the law of this state.

(2) If the security interest was perfected under the law of the jurisdiction where the vehicle was when the security interest attached, the following rules apply:

(A) If the name of the lienholder is shown on a currently effective certificate of title issued by that jurisdiction, his security interest continues perfected in this state.

(B) If the name of the lienholder is not shown on a currently effective certificate of title issued by that jurisdiction, the security interest continues perfected in this state for four months after a first certificate of title of the vehicle is issued in this state, and also, thereafter if, within the four month period, it is perfected in this state. The security interest may also be perfected in this state after the expiration of the four month period; in that case perfection dates from the time of perfection in this state.

(3) If the security interest was not perfected under the law of the jurisdiction where the vehicle was when the security interest attached, it may be perfected in this state; in that case, perfection dates from the time of perfection in this state.

* (d) A security interest noted on a certificate of title to a vehicle which is a mobile home or a manufactured home shall have priority over any other subsequent liens or security interests except for those set forth in subdivision (c) of section two thousand one hundred three of this article.

* NB Effective until December 12, 2026

* (d) A security interest noted on a certificate of title to a vehicle which is a manufactured home shall have priority over all subsequent liens or security interests except for those set forth in subdivision (c) of section twenty-one hundred three of this article.

* NB Effective December 12, 2026

* (e) After a certificate of title has been issued in this state for a vehicle which is a mobile home or a manufactured home, and as long as the vehicle which is a mobile home or a manufactured home is subject to any security interest perfected pursuant to this section, the commissioner shall not revoke the certificate of title, and, in any event, the validity and priority of any security interest perfected pursuant to this section shall continue, notwithstanding the provision of any other law, including but not limited to section 9--303 and section 9-313 of the uniform commercial code.

* NB Effective until December 12, 2026

* (e) Except as otherwise provided in sections twenty-one hundred seventeen-b and twenty-one hundred twenty-three of this article, and article nine-E of the real property law, after a certificate of title has been issued for a manufactured home, and as long as the manufactured home is subject to any security interest perfected pursuant to this section, the commissioner shall not file an affidavit of affixation, nor revoke the certificate of title, nor issue a certificate of title under subdivision (a) of section twenty-one hundred seven of this article, and, in any event, the validity and priority of any security interest perfected pursuant to this section shall continue, notwithstanding the provision of any other law.

* NB Effective December 12, 2026

§ 2119. Security interest. If an owner creates a security interest in a vehicle:

(a) The owner shall, if the lienholder so requests, execute the application, in the space provided therefor on the certificate of title or on a separate form the commissioner prescribes, to name the lienholder on the certificate, showing the name and address of the lienholder, and cause the certificate, application and the required fee

to be delivered to the lienholder.

(b) The lienholder shall, immediately after the owner complies with subdivision (a), cause the certificate, application and the required fee to be mailed or delivered to the commissioner.

(c) Upon receipt of the certificate of title, application and the required fee, the commissioner shall either endorse on the certificate, or issue a new certificate containing, the name and address of the new lienholder, and mail the certificate to the owner.

§ 2120. Assignment by lienholder. (a) A lienholder may assign, absolutely or otherwise, his security interest in the vehicle to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the security interest and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the certificate.

(b) The assignee may, but need not to perfect the assignment, have the certificate of title endorsed or issued with the assignee named as lienholder, upon delivering to the commissioner an assignment by the lienholder named in the certificate in the form the commissioner prescribes. Upon the request of the assignee the commissioner shall request the owner to deliver to the commissioner the certificate of title.

§ 2121. Release of security interest. (a) Upon the satisfaction of a security interest in a vehicle the lienholder shall immediately upon clearance of payment execute a release of his security interest in a manner prescribed by the commissioner and mail or deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate. Payment sufficient to satisfy the security interest by an insurer of the owner shall be deemed an authorization by the owner for the delivery of the release of the security interest to the insurer. If the payment in satisfaction of the security interest is in cash, certified check, intra-bank transfer of

funds or an uncertified check or draft issued by an insurance company authorized to do business in this state, the payment shall be deemed to be cleared immediately upon receipt. The owner, other than a dealer holding the vehicle for resale, may cause the certificate and release to be mailed or delivered to the commissioner, who shall release the lienholder's rights on the certificate or issue a new certificate.

(b) A dealer who receives a motor vehicle for the purposes of resale and who arranges for the satisfaction of any security interest in such vehicle, and for which a release of security interest has not been issued, may submit to the commissioner sufficient evidence to demonstrate that such security interest has been satisfied and shall provide notice to the lienholder two weeks prior to submission to the commissioner. The commissioner shall, upon receipt of such evidence, a proper application and the appropriate fee pursuant to section twenty-one hundred twenty-five of this article, promptly issue, within no more than fifteen business days of receipt by the department of all required information and fees, either a duplicate certificate without such lien included thereon, or a certificate without such lien included thereon. Evidence that a security interest has been satisfied shall include: (i) evidence that an interbank or electronic transfer of funds has been made; or (ii) evidence that a copy of a cashier's or bank check has been delivered; or (iii) other evidence as determined to be satisfactory by the commissioner; and (iv) evidence that the amount delivered to the lienholder is equal to the amount which has been represented to the dealer by the lienholder as sufficient to satisfy such lien. Such evidence shall be accepted by the commissioner as sufficient. Any evidence submitted to the commissioner pursuant to this subdivision may, subject to approval of the commissioner, be submitted in electronic form. In addition to the penalties imposed by section twenty-one hundred thirty of this article, any dealer who alters or forges evidence of payment, or fails to make a payment, shall be liable to any party for any damages resulting from the issuance of a new certificate by the commissioner, plus attorney's fees and costs incurred in recovering such damages, provided however no subsequent purchaser of a vehicle where the security interest was removed by the commissioner under the provisions of this subdivision shall be liable for any errors in the removal of such security interest, and any dealer who so applied

for the removal of such security interest on such vehicle shall indemnify any such purchaser and lienholder. The commissioner is authorized to adopt and enforce reasonable rules and regulations necessary to carry out the provisions of this subdivision.

§ 2122. Duty of lienholder. A lienholder named in a certificate of title shall, upon written request of the owner or of another lienholder named on the certificate, disclose any pertinent information as to his security agreement and the indebtedness secured by it. The office of temporary and disability assistance, or a social services district, or its authorized representative shall be deemed to have complied with this section upon disclosing the name of the obligor and the amount of the debt.

*** § 2123. Exclusiveness of procedure.** The method provided in this article of perfecting and giving notice of security interests subject to this article is exclusive. Security interests subject to this article are hereby exempted from the provisions of law which otherwise relate to the perfection of security interests, including but not limited to section 9-313 of the uniform commercial code.

* NB Effective until December 12, 2026

* § 2123. Exclusiveness of procedure. The method provided in this article of perfecting and giving notice of security interests subject to this article is exclusive. Security interests subject to this article are hereby exempted from the provisions of law which otherwise relate to the perfection of security interests, provided, however, that with respect to a manufactured home that is or will be affixed to a permanent foundation, upon recordation of an affidavit of affixation pursuant to paragraph (iii) of subdivision (a) of section three hundred forty-four-b of the real property law and satisfaction of the requirements of section twenty-one hundred seventeen-a, twenty-one hundred seventeen-b or twenty-one hundred seventeen-c of this article, any perfection or termination of a security interest with respect to such manufactured home shall conform to the requirements of article nine-E of the real property law.

* NB Effective December 12, 2026

§ 2124. Suspension or revocation of certificates. (a) (1) The commissioner shall suspend or revoke a certificate of title, upon notice and reasonable opportunity to be heard in accordance with section two thousand one hundred twenty-seven, when authorized by any other provision of law, including but not limited to subdivision (e) of section two thousand one hundred eighteen of this article, or if he finds:

(i) The certificate of title was fraudulently procured or erroneously issued, or

(ii) The vehicle has been scrapped, dismantled or destroyed.

* (2) Notwithstanding any other provision of law, the commissioner shall not suspend or revoke a certificate of title to a vehicle which is a mobile home or manufactured home by reason of the fact that, at any time, in any manner, it shall have become attached to realty.

* NB Effective until December 12, 2026

* (2) Except as provided in section twenty-one hundred seventeen-b and subdivision (e) of section twenty-one hundred eighteen of this article, the commissioner shall not suspend or revoke a certificate of title to a manufactured home by reason of the fact that, at any time, in any manner, it shall have become attached to real property.

* NB Effective December 12, 2026

(b) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(c) When the commissioner suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the commissioner.

(d) The commissioner may seize and impound any certificate of title which has been suspended or revoked.

(e) A certificate of title may be temporarily suspended pending a hearing.

§ 2125. Fees. (a) The commissioner shall be paid the following fees:

* (1) for filing an application for a certificate of title, fifty dollars except where the application relates to a mobile home or a manufactured home as defined in section one hundred twenty-two-c of this chapter, in which case the fee shall be one hundred twenty-five dollars;

* NB Effective until April 1, 2028

* (1) for filing an application for a certificate of title, five dollars except where the application relates to a mobile home or a manufactured home as defined in section one hundred twenty-two-c of this chapter, in which case the fee shall be twenty-five dollars;

* NB Effective April 1, 2028

(2) for each security interest noted upon a certificate of title, five dollars;

(3) for a duplicate certificate of title, twenty dollars.

(b) If an application, certificate of title or other document required to be mailed or delivered to the commissioner under any provision of this article is not delivered to the commissioner within ten days from the time it is required to be mailed or delivered, the commissioner may impose, as a penalty, an amount equal to the fee required for the transaction.

(c) The fee for filing a notice of security interest shall be paid by the party secured and such fee shall not be charged to the owner in any manner.

(d) The provisions of this section with respect to the payment of fees for the issuance of a title certificate shall not apply to any vehicle which is exempt from the payment of a registration fee by any provision of this chapter.

(e) The provisions of this section with respect to the payment of fees for recording a security interest on a certificate of title shall not apply to any security interest reserved or created on behalf of the United States, this state, any of the political subdivisions of this state, or any public authority of this state created by law.

(f) Whenever the commissioner prescribes a procedure which causes images relating to an application for a certificate of title to be created and stored an additional fee not to exceed one dollar above the actual cost of producing a certificate of title rounded to the nearest twenty-five cents shall be paid to the commissioner upon the filing of an application for a certificate or duplicate certificate of title.

* (g) Fees assessed for filing an application for a certificate of title shall be deposited to the credit of the dedicated highway and bridge trust fund with the exception of the forty dollar increase in the application for an original title for vehicles other than a mobile or manufactured home and the one hundred dollar increase in the application for an original title for a mobile or manufactured home collected pursuant to paragraph one of subdivision (a) of this section, and the ten dollar increase in the fee for a duplicate certificate of title collected pursuant to paragraph three of subdivision (a) of this section which shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law.

* NB Repealed April 1, 2028

§ 2126. Powers of commissioner. (a) The commissioner shall prescribe and provide suitable forms of applications, certificates of title, notices of security interests, and all other notices and forms necessary to carry out the provisions of this article.

(b) The commissioner may:

(1) Make necessary investigations to procure information required to carry out the provisions of this article; and

(2) Adopt and enforce reasonable rules and regulations to carry out the provisions of this article; and

(3) Upon assigning a new identifying number to a vehicle if it has none, or its identifying number is destroyed or obliterated, shall either issue a new certificate of title showing the new identifying number or make an appropriate indorsement on the original certificate.

§ 2127. Hearings. A person aggrieved by an act or omission to act of the commissioner under this article is entitled to a hearing. The commissioner shall grant a hearing to an applicant therefor as soon as practicable, except that if a certificate of title is temporarily

suspended, within ten days after receipt of a written request for such hearing. No hearing shall be required because of the refusal of the commissioner to issue a certificate of title in a case where the commissioner determines that a request for such hearing is frivolous or based upon sham. The applicant may be heard in person or by counsel. The hearing shall be at such time and place as the commissioner shall prescribe. The commissioner acting by such officer or person in the department of motor vehicles as he may designate, shall have the power to temporarily omit to take any action under this article pending a hearing and to subpoena and bring before the officer or person so designated any person in this state and administer an oath to and take testimony of any person or cause his deposition to be taken with the same fees and mileage in the same manner as prescribed by law in judicial procedure in courts of this state in civil cases.

§ 2128. Court review. An act or omission to act of the commissioner under this article shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules.

§ 2129. Stolen, converted, recovered and unclaimed vehicles. (a) Police or peace officer's report. A peace officer, when acting pursuant to his special duties, or police officer who learns of the theft of a vehicle not since recovered, or of the recovery of a vehicle whose theft or conversion he knows or has reason to believe has been reported to the commissioner, shall forthwith report the theft or recovery to the commissioner. Such report shall be in addition to any other reports required by law.

(b) Owner's or lienholder's report. An owner or a lienholder may report the theft of a vehicle, or its conversion if a crime, to the commissioner, but the commissioner may disregard the report of a conversion unless a warrant has been issued for the arrest of a person charged with the conversion. A person who has so reported the theft or conversion of a vehicle shall, forthwith after learning of its recovery, report the recovery to the commissioner.

(c) Garage operator's report. An operator of a place of business for garaging, parking or storing vehicles for the public, in which a vehicle remains unclaimed for a period of thirty days, shall, within five days after the expiration of that period, report the vehicle as unclaimed to the commissioner. A vehicle left by its owner whose name and address are known to the operator or his employee is not considered unclaimed. A person who fails to report a vehicle as unclaimed in accordance with this subdivision forfeits all claims and liens for its garaging, parking or storing.

(d) Commissioner's record. The commissioner shall maintain, and appropriately index appropriate public records of stolen, converted, recovered and unclaimed vehicles reported to him pursuant to this section. The commissioner may make and distribute copies of any such records so maintained to peace officers, when acting pursuant to their special duties, or police officers upon request without fee and to others for the fee, if any, the commissioner prescribes.

(e) Commissioner's action. The commissioner may suspend the registration of a vehicle whose theft or conversion is reported to him pursuant to this section; until the commissioner learns of its recovery or that the report of its theft or conversion was erroneous, he shall not issue a certificate of title for the vehicle.

§ 2130. Offenses relating to certificates. (a) Felonies. A person who, with fraudulent intent:

(1) Alters, forges or counterfeits a certificate of title is guilty of a felony;

(2) Alters or forges an assignment of a certificate of title, or an assignment or release of a security interest, on a certificate of title or a form the commissioner prescribes is guilty of a felony;

(3) Has possession of or uses a certificate of title knowing it to have been altered, forged or counterfeited is guilty of a felony;

(4) Uses a false or fictitious name or address, or makes a material false statement, or fails to disclose a security interest, or conceals any other material fact, in an application for a certificate of title, or in any copy of an assignment and warranty of title retained and produced for the purpose of negating any presumption contained in

subdivision seven of section twelve hundred twenty-four of this chapter, is guilty of a felony; or

(5) Produces, makes, manufactures, or reproduces any vehicle certificate of origin or any certificate of title or any license plate or tag of any other state, district or territory, or of any foreign country; or possesses any device for producing, making, manufacturing, or reproducing the same is guilty of a felony.

(b) Misdemeanors. A person who, with fraudulent intent:

(1) Permits another, not entitled thereto, to use or have possession of a certificate of title is guilty of a misdemeanor;

(2) Fails to mail or deliver a certificate of title or application therefor to the department within ten days after the time required by this article is guilty of a misdemeanor; or

(3) Fails to deliver to his transferee a certificate of title within ten days after the time required by this article is guilty of a misdemeanor.

(c) Traffic infractions. A person who wilfully violates any provision of this article except as provided in subdivisions (a) and (b) is guilty of a traffic infraction.

§ 2131. Evidence of criminal intent or knowledge. In a prosecution for a crime specified in this article, evidence that the defendant has committed a prior act or acts of the same kind is admissible to prove criminal intent or knowledge.

§ 2132. Effect on other laws. The penal provisions of this article in no way repeal or modify any existing provision of the penal law but are additional and supplementary thereto.

§ 2133. Uniformity of interpretation. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 2134. Short title. This article may be cited as the uniform vehicle certificate of title act.

§ 2135. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

TITLE XI
REGISTRATION OF SNOWMOBILES, MOTORBOATS AND LIMITED USE VEHICLES

Article 47. Registration of snowmobiles.
48. Registration of vessels.
48-A. Registration of limited use vehicles.
48-B. Registration of all terrain vehicles.
48-C. Rules for operation of all terrain vehicles.

ARTICLE 47
REGISTRATION OF SNOWMOBILES

Section 2220. Jurisdiction of department.
2221. Definitions.
2222. Registration.
2223. Display of registration numbers.
2224. Registration record.
2225. Certificate of registration.
2226. Licensing by municipalities.
2227. Rules and regulations.
2228. Special events.
2229. Snowmobile, not a motor vehicle.
2230. Suspension and revocation of registrations; offenses; penalties.
2231. Disposition of fees.

§ 2220. Jurisdiction of department. The registration of snowmobiles shall be under the jurisdiction of the department.

§ 2221. Definitions. For the purposes of this article, the following terms shall have the following meanings.

1. Snowmobile. Any self-propelled vehicle equipped with a motor, originally manufactured and designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or tracked cleats.

2. Cowling. The forward portion of the snowmobile usually surrounding the motor and clutch assembly.

3. Dealer. Any person engaged in the business of selling snowmobiles at wholesale or retail.

§ 2222. Registration. 1. Except as hereinafter provided, no person shall operate any snowmobile within the state unless: (a) such snowmobile has been registered and numbered in accordance with the provisions of this article, and the registration number for such snowmobile is in full force and effect as hereinafter provided; and (b) the registration number for such snowmobile is displayed as hereinafter provided.

2. The commissioner is authorized to register a snowmobile, issue a registration certificate and assign a registration number to such snowmobile. All such registrations shall be valid until the thirty-first day of August following the date of such registration; except that registrations issued between the first day of April and the thirty-first day of August, inclusive, shall be valid until the thirty-first day of August in the following year; and unless, prior to expiration of the period of registration, it is surrendered, cancelled, revoked or

suspended pursuant to the provisions of this article.

3. A number once assigned under this section shall remain with the registered snowmobile until the snowmobile is destroyed, abandoned or permanently removed from the state, or until changed or terminated by the commissioner.

4. Fees. Fees for registration of snowmobiles, to be collected by the commissioner under this article, are as follows:

(a) A fee of ten dollars for each individual resident registration.

(b) A fee of ten dollars for each individual nonresident registration.

(c) A fee of fifty dollars for each two-year dealer registration.

(d) A fee of five dollars for each additional dealer demonstrator registration number.

(e) A fee of one dollar for replacement of a lost, mutilated or destroyed certificate.

* (f) A fee of five dollars for each individual resident and non-resident registration of a snowmobile manufactured more than thirty years prior to the current calendar year.

* NB Effective December 31, 2028

* 4-a. Additional fee. In addition to the other fees provided for in paragraphs (a), (b) and (c) of subdivision four of this section the commissioner shall, upon application in such cases for the registration of a snowmobile or the renewal thereof, collect the annual one hundred twenty-five dollar fee for residents and one hundred twenty-five dollar fee for nonresidents or a fifty-five dollar fee for residents and fifty-five dollar fee for nonresidents who provide proof, at the time of registration, that such individual is a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association which are imposed by section 21.07 of the parks, recreation and historic preservation law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, he or she may contact the New York state snowmobile association, who shall secure such membership for such person. This fee shall also be collected from dealers at the time of

original registration and at the time of each renewal. The commissioner shall effectuate regulations regarding what is required as proof of membership in an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association for the purposes of this subdivision.

* NB Effective until December 31, 2028

* 4-a. Additional fee. (a) In addition to the other fees provided for in paragraphs (a), (b) and (c) of subdivision four of this section the commissioner shall, upon application in such cases for the registration of a snowmobile or the renewal thereof, collect the annual one hundred twenty-five dollar fee for residents and one hundred twenty-five dollar fee for nonresidents or a fifty-five dollar fee for residents and fifty-five dollar fee for nonresidents who provide proof, at the time of registration, that such individual is a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association which are imposed by section 21.07 of the parks, recreation and historic preservation law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, they may contact the New York state snowmobile association, who shall secure such membership for such person. This fee shall also be collected from dealers at the time of original registration and at the time of each renewal.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, in addition to the other fees provided for in paragraphs (a), (b), (c) and (f) of subdivision four of this section, the commissioner shall, upon application in such cases for the registration of a snowmobile manufactured more than thirty years prior to the current calendar year or the renewal thereof, collect the annual one hundred twenty-five dollar fee for residents and one hundred twenty-five dollar fee for nonresidents or a twenty dollar fee for residents and twenty dollar fee for nonresidents who provide proof, at the time of registration, that such individual is a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York

state snowmobile association which are imposed by section 21.07 of the parks, recreation and historic preservation law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, such person may contact the New York state snowmobile association, who shall secure such membership for such person.

(c) The commissioner shall effectuate regulations regarding what is required as proof of membership in an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association for the purposes of this subdivision.

* NB Effective December 31, 2028

5. Application. The owner of each snowmobile requiring registration under this section shall present an application for registration to the commissioner, on a blank to be prepared and furnished by the commissioner for that purpose. Such application shall contain or be accompanied by such evidence of the ownership of the snowmobile described in the application as may be required by the commissioner.

6. Dealers. Any person who is a dealer shall register as a dealer. The commissioner, upon receipt of an application and the required fee, shall assign a distinctive dealer registration number to the registrant and issue an appropriate registration certificate to him and assign two dealer demonstrator registration numbers and upon the payment of the appropriate fee, such additional numbers as shall be requested. Dealer registrations and dealer demonstrator registration numbers shall not be transferable.

7. Renewal. After payment of the registration fees as provided in subdivisions four and four-a of this section, every owner of a snowmobile shall renew his or her registration annually on or before September first of each year and every dealer shall renew his or her registration biennially in such form and manner as the commissioner shall prescribe. If a dealer registration is issued for a period of more or less than two years, the fee for such registration shall be prorated on a monthly basis.

* 8. The validating date tag. At the time of the original registration and at the time of each annual renewal thereof, the commissioner shall also issue to said registrant a date tag or tags indicating the validity of the current registration and the expiration date thereof, which validating date tag or tags should be affixed to the snowmobile in such manner as the commissioner may prescribe. Notwithstanding the fact that a snowmobile has been assigned an identifying number, it shall not be considered as validly registered within the meaning of this section unless a validating date tag and current registration certificate have been issued.

* NB Effective until December 31, 2028

* 8. The validating date tag. At the time of the original registration and at the time of each annual renewal thereof, the commissioner shall also issue to said registrant a date tag or tags indicating the validity of the current registration and the expiration date thereof, which validating date tag or tags should be affixed to the snowmobile in such manner as the commissioner may prescribe. Notwithstanding the fact that a snowmobile has been assigned an identifying number, it shall not be considered as validly registered within the meaning of this section unless a validating date tag and current registration certificate have been issued. The commissioner may develop a vintage design for the date tag or tags issued to a snowmobile manufactured more than thirty years prior to the current calendar year.

* NB Effective December 31, 2028

9. Denial of current registration. In the event that a snowmobile sought to be registered or re-registered does not, after inspection and testing, comply with the provisions respecting equipment established by section 25.17 of the parks and recreation law or by the regulations of the commissioner promulgated pursuant to this title, the commissioner may deny the issuance of a validating date tag and current certificate of registration.

10. Snowmobiles owned by governmental agencies. A registration number shall be assigned, without payment of a fee, for snowmobiles owned by governmental agencies, or by volunteer organizations if used exclusively for emergency purposes, provided that each such snowmobile shall display

the proper registration number assigned to it.

11. Exemption. No registrations shall be required for the following described snowmobiles:

(a) Snowmobiles owned and used by the United States.

(b) Snowmobiles covered by a valid registration or license of another state, province or country, as provided in subdivision twelve of this section.

(c) Snowmobiles operated on lands owned by the owner of such snowmobile, or on lands to which such owner has a contractual right other than as a member of a club or association provided (i) the snowmobile is not operated elsewhere within the state, and (ii) no consideration, either direct or indirect, is paid to the owner of the snowmobile with respect to such operation.

12. Out of state snowmobile registration. The registration provisions of this article shall apply to non-resident owners of snowmobiles used in New York state as provided for by the commissioner except when their snowmobile is used on trails which proceed along a New York state border and which, occasionally as dictated by the terrain, cross into another state, in which such snowmobile is registered; such cross border trails on which nonresident owned snowmobiles may proceed without New York state registration shall be designated by the state commissioner of the office of parks, recreation and historic preservation as provided in section 25.04 of the parks, recreation and historic preservation law and he shall publish such trail designation in the New York state register and other publications accessible to the snowmobiling public. Such non-resident registration applications shall be made available at the place of business of all registered dealers and by mail from the department. Nothing in this subdivision shall be construed to authorize the operation of any snowmobile contrary to the provisions of this article.

13. State aid. The Lake George park commission shall be entitled to receive state aid in an amount relating to the percentage of fees collected under this section that can be estimated to be attributed to snowmobile use within the Lake George park. The amount of such aid shall

be annually determined by the commissioner of parks, recreation and historic preservation and the director of the budget.

14. Registration at time of sale. Snowmobiles sold by dealers shall be registered at the time of sale of such snowmobile. Such registration shall be valid until the thirty-first day of August following the date of such sale; provided however that snowmobiles sold after April first of each year shall be issued a registration valid until the thirty-first day of August in the year following that in which the snowmobile is sold. Snowmobiles purchased to be used in accordance with paragraph (c) of subdivision eleven of this section or for use exclusively outside of the state of New York shall not require registration at the time of purchase, and the purchaser of such snowmobile shall sign a declaration, provided by the dealer, which shall state that such purchaser understands the conditions under which a snowmobile must be registered and the penalty for violation of such registration provisions; the form of such declaration shall be provided by the commissioner to each dealer and shall be forwarded to the commissioner.

§ 2223. Display of registration numbers. 1. The registration numbers assigned to a snowmobile shall be displayed on the vehicle at all times in such manner as the commissioner may, by regulation, prescribe. No number other than the number assigned to a snowmobile by the commissioner or the identification number of the registration in another state should be painted, attached or otherwise displayed on either side of the cowling, except that racing numbers on a snowmobile being operated in special events, approved by the commissioner of parks and recreation, may be temporarily displayed for the duration of the race.

2. Dealer demonstrator registration numbers shall conform to the requirements set forth in subdivision one of this section with the exception that the numbers assigned may be printed upon or attached to a removable plaque or plaques to be temporarily but firmly affixed to the snowmobile being demonstrated or tested.

3. Numbers issued to dealers and manufacturers for the purpose of

demonstration or testing shall be used exclusively for these purposes and no other use is permitted.

§ 2224. Registration record. Upon receipt of a sufficient application for registration of a snowmobile, as provided in this article, the commissioner shall enter upon the records of the department the registration of such vehicle under the distinctive number assigned to such snowmobile as provided in this article.

§ 2225. Certificate of registration. 1. Certificate. Upon the filing of the application and payment of the fee as provided in this article, the commissioner shall assign to such snowmobile a distinctive number, and, without further expense to the applicant, issue a certificate of registration, in such manner and form as the commissioner shall prescribe. In the event of the loss, mutilation or destruction of any certificate of registration, the owner of the registered snowmobile may file such statement and proof of the facts as the commissioner shall require with a fee of one dollar, with the department, for the issuance of a duplicate or substitute.

2. Carrying certificate. Every person operating a snowmobile registered in accordance with any of the provisions of this article shall, upon demand of any magistrate, police officer or peace officer, when acting pursuant to his special duties, produce for inspection the certificate of registration for such snowmobile and shall furnish to such person any information necessary for the identification of such snowmobile and its owner. The failure to produce the certificate of registration as provided herein shall not be an offense, but shall be presumptive evidence of operating a snowmobile which is not registered as required by this article.

3. Change of residence. It shall be the duty of every owner holding a certificate of registration to notify the department, in writing, of any change of residence of such owner within fifteen days after such change occurs, and to inscribe on such certificate, in the place provided a

record of such change of residence.

4. Change of ownership. Whenever a snowmobile is transferred or its use discontinued, the registration portion of the certificate of registration shall be properly signed and executed by the owner showing that the ownership of the snowmobile has been transferred or its use discontinued and such certificate shall be returned to the department within fifteen days after such transfer or discontinuance. In the case of transfer, the new owner shall apply for a new certificate by completing an application for registration, using the original number issued for such snowmobile. Such application shall be submitted to the department together with the renewal or transfer of the old certificate of registration, properly signed by the previous owner, and the required fee of five dollars. The renewal or transfer of the old certificate of registration, properly signed by the previous owner, shall constitute a temporary registration for such new owner for a period determined by the commissioner from the date such snowmobile was transferred to the new owner. In the event that such snowmobile was purchased from a registered dealer, the application must be accompanied by a dealer's form, numbered, completed and signed by the dealer or his agent and signed by the new owner, as prescribed by the commissioner.

5. Destruction, theft or removal from state. It shall be the duty of every owner of a snowmobile registered pursuant to the provisions of this article to notify the department, in writing, of the destruction, theft or permanent removal of such snowmobile from the state, within fifteen days of acquiring knowledge thereof. In the event of destruction or theft, the certificate of registration shall be surrendered with such notice.

§ 2226. Licensing by municipalities. No municipality shall require licensing or registration of snowmobiles which are covered by the provisions of this article; nor shall it require possession of a valid motor vehicle operator's license as a condition for the operation of a snowmobile on lands owned or controlled by such municipality. Nothing herein shall prohibit the requirement of a permit by the agency having

jurisdiction over any state or local park for use of snowmobiles on such park lands. No charge for such use may be made, except the usual charge, if any, for admission to such park, parking privileges or services provided.

§ 2227. Rules and regulations. The commissioner shall make such rules and regulations as he may deem necessary to carry out the provisions of this article.

§ 2228. Special events. Snowmobiles operated at special events approved by the commissioner of parks and recreation pursuant to section 25.11 of parks and recreation law shall be exempt from the provisions of this article concerning registration.

§ 2229. Snowmobile, not a motor vehicle. Notwithstanding its limited use on highways, a snowmobile shall not be determined a motor vehicle within the meaning of section one hundred twenty-five of this chapter or any other successor statutes.

§ 2230. Suspension and revocation of registrations; offenses; penalties. 1. The commissioner may suspend or revoke a registration issued pursuant to the provisions of this article, upon satisfactory proof of a violation of any provision of this article, or of the parks, recreation and historic preservation law at the request of the commissioner of parks, recreation and historic preservation, or of any rule, regulation, order, local law or ordinance adopted or promulgated pursuant thereto. Such suspension or revocation shall be issued only after a hearing unless such a hearing is waived by the registrant. Upon said suspension or revocation, all rights and privileges accruing to such registrant shall terminate.

2. a. Except as provided in paragraph b of this subdivision, any person who violates any provision of this article or regulation adopted

pursuant thereto shall be guilty of a violation punishable by a fine of up to two hundred dollars, and one-half of such fine shall be deposited in the snowmobile trail development and maintenance fund as set forth in section 21.07 of the parks, recreation and historic preservation law.

b. Any person who violates the provisions of paragraph a of subdivision one of section twenty-two hundred twenty-two of this article shall be guilty of a violation punishable by a fine of not less than two hundred dollars nor more than five hundred dollars, except if the violation consists of failure to renew a registration which was valid within sixty days the fine shall be not more than fifty dollars. One-half of such fines shall be deposited in the snowmobile trail development and maintenance fund as set forth in section 21.07 of the parks, recreation and historic preservation law.

§ 2231. Disposition of fees. 1. The commissioner shall deposit all monies received by him from the registration of snowmobiles and other services provided by the department and all fees otherwise collected by him under this article to the credit of the general fund except that additional fees imposed by section 21.07 of the parks, recreation and historic preservation law received by the commissioner pursuant to section two thousand two hundred twenty-two of this chapter shall be deposited to the credit of the snowmobile trail development and maintenance fund and that monies allocated to the Lake George park commission shall be deposited to the credit of the Lake George park trust fund pursuant to section ninety-seven-h of the state finance law.

2. Notwithstanding subdivision one of this section, the commissioner shall also deposit five dollars of the fees collected pursuant to paragraphs (a), (b) and (c) of subdivision four of section two thousand two hundred twenty-two of this article, to the credit of the snowmobile trail development and maintenance fund.

ARTICLE 48
REGISTRATION OF VESSELS

Section 2250. Jurisdiction of department.
2251. Registration.
2252. Exemption from registration.
2253. Certificates of registration, registration numbers, and validating stickers.
2254. Registration record.
2255. Temporary registration.
2256. Suspension and revocation of registrations; offenses; penalties.
2257. Registration of dealers.
2257-a. Suspension, revocation or refusal to issue dealer registration; suspension or revocation of dealer demonstrator number or trailer plate; suspension of authority to issue temporary registration; civil penalty.
2257-b. Yacht brokers.
2258. Rules and regulations.

§ 2250. Jurisdiction of department. The registration of vessels shall be under the jurisdiction of the department. For the purposes of this article, a vessel shall be every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water. A vessel propelled by an outboard motor shall include the hull, but shall not include the outboard motor.

§ 2251. Registration. 1. No person shall operate or permit the operation of a vessel on the navigable waters of the state, or on any other waters within the boundaries of the state, except waters which are privately owned, unless such vessel is registered and numbered and bears a current validation sticker in accordance with the provisions of this article.

2. Issuance and period of validity. The commissioner is authorized to register a vessel, issue a registration certificate, validation sticker or stickers and assign a registration number to such vessel. Unless

otherwise prescribed by the commissioner, any such registration shall be valid for a period of three years unless, prior to such expiration date, it is surrendered, cancelled, revoked or suspended pursuant to the provisions of this article, or the vessel is transferred to another owner.

3. Fees. The triennial fee for registration of a vessel shall be: twenty-two dollars and fifty cents if less than sixteen feet in length; forty-five dollars if sixteen feet or over but less than twenty-six feet in length; seventy-five dollars if twenty-six feet or over.

4. Application. The owner of each vessel requiring registration under this section shall present an application for registration to the commissioner, or an agent designated by the commissioner, on a blank to be prepared and furnished by the commissioner for that purpose. Such application shall contain or be accompanied by such evidence of the ownership of the vessel described in the application as may be required by the commissioner.

5. Renewal. Every owner of a vessel shall renew his registration at such times and in such manner as the commissioner shall prescribe, on payment of the same registration fees as are provided in subdivision three of this section except that, in implementing the purposes of this act, the commissioner may schedule the commencement dates, duration and expiration dates of such renewals to provide for a cycle of registration renewals through the course of a fiscal year. For registrations issued for less than the three year registration period, a portion of a month shall be considered a month and the registration fee shall be levied on a prorated basis.

6. Change of address. The owner of any vessel registered pursuant to the provisions of this section shall notify the commissioner in writing of any change in his address within ten days after such change occurs and the new address of such owner shall be noted by him on the certificate of registration for such vessel.

7. Change of ownership. Upon the change in ownership of a vessel

registered pursuant to this section, unless otherwise provided by regulation of the commissioner, the certificate of registration shall be signed and dated by the owner and surrendered to the new owner and at the same time the commissioner shall be notified by the former owner, in a manner prescribed by the commissioner, of the name and address of the purchaser, the date of transfer and the identification number.

8. Destruction, theft, loss or abandonment of vessel. The owner of any vessel registered pursuant to the provisions of this section shall notify the commissioner in writing of the destruction, theft, loss or abandonment of such vessel within fifteen days thereafter, and in the event of the loss, destruction or abandonment of such vessel, the certificate of registration shall be surrendered with such notice.

9. Duplicate certificates of registration or validating stickers. In the event of loss, mutilation or destruction of any certificate of registration or validation sticker, the owner of the registered vessel may file with the department such statement and proof of the facts as the commissioner shall require with a fee of two dollars, with the department, for the issuance of a duplicate or substitute.

§ 2252. Exemption from registration. 1. The provisions of section twenty-two hundred fifty-one of this article shall not apply to the following vessels:

(a) Vessels having a valid marine document issued by the United States or a foreign government, while being used for commercial purposes.

(b) Vessels displaying a valid identification or registration number issued by another state under a numbering system which has been approved in accordance with the provisions of federal law, provided such vessel shall not have been within this state for a period in excess of ninety consecutive days.

(c) Vessels owned by residents of foreign countries temporarily using the waters of the state.

(d) Vessels owned by the United States, a state, or a subdivision thereof.

(e) Boats which are "lifeboats." No vessel which is used for other

than lifesaving purposes shall be deemed a "lifeboat" for purposes of this subdivision.

(f) Vessels used exclusively for racing.

(g) Any vessel which is not equipped with a motor by which it may be mechanically propelled.

2. Notwithstanding the provisions of subdivision one of this section, the owner of a vessel which is exempt from the provisions of section twenty-two hundred fifty-one of this article may apply for, and the commissioner may issue, a registration for such vessel. If such a registration is issued, and while such registration is in effect, the provisions of this article relating to certificates of registration, registration numbers and validating stickers shall apply to such vessel. Upon the expiration of the registration of any such vessel, the registration number assigned to it shall be effectively removed from such vessel.

§ 2253. Certificates of registration, registration numbers, and validating stickers. 1. Issuance. Upon the approval of an application for registration and payment of the fee as provided in this article, the commissioner shall assign to a vessel a registration number, and, without further expense to the applicant, issue a certificate of registration and, effective April first, nineteen hundred eighty-six, a validating sticker or stickers, in such manner and form as the commissioner shall prescribe.

2. Certificate of registration. The certificate of registration issued by the commissioner shall be available at all times for inspection on the vessel for which it is issued whenever such vessel is in operation, unless otherwise provided by a rule or regulation of the commissioner. Every person operating a vessel shall, upon demand of any peace officer, federal officer or other person having the authority to enforce the provisions of this chapter, produce the certificate of registration for inspection. The failure to produce the certificate of registration, as provided herein, shall not be an offense, but shall be presumptive evidence of operating a vessel which is not registered as required by

this article.

3. Registration number. A registration number once assigned under this section shall remain with the vessel until the vessel is destroyed, abandoned or permanently removed from the state, or until changed or terminated by the commissioner. The registration number assigned to the vessel shall be painted on or attached to each side of the forward half of the vessel by the owner in such a position as to be displayed in a conspicuous manner with figures and letters at least three inches in height. The registration number shall be maintained in a legible condition so that the figures and letters are readily discernible during daylight hours at a distance of one hundred feet. No other number shall be carried on the forward half of such vessel. Notwithstanding the foregoing provisions of this subdivision, a vessel having a valid marine document issued by the United States or a foreign government shall not be required to display its assigned registration number on the vessel.

4. Validating stickers. Effective April first, nineteen hundred eighty-six, at the time of the original registration and at the time of each renewal thereof, the commissioner shall also issue to said registrant a validating sticker or stickers indicating the validity of the current registration and the expiration date thereof, which validating sticker or stickers shall be affixed to the vessel in such manner as the commissioner may prescribe provided, however, that where the hull of a vessel equipped with a windshield is constructed of wood, such validating sticker or stickers may be affixed to the windshield of the vessel. From that time and notwithstanding the fact that a vessel has been assigned a registration number, it shall not be considered as validly registered within the meaning of this article unless a validating sticker and current registration certificate have been issued. In addition, the commissioner may issue a validating sticker or stickers to the holder of a certificate of registration issued prior to April first, nineteen hundred eighty-six, without further expense to the holder, indicating the validity of the current registration and the expiration date thereof, which validating sticker or stickers shall be affixed to the vessel in such a manner as the commissioner may prescribe. The commissioner shall establish by regulation such terms and

conditions as may be necessary to accomplish the issuance of such validating sticker or stickers and the date upon which their issuance shall be completed. From thirty days after such date and notwithstanding the fact that a vessel has been assigned a registration number and has a current certificate of registration, it shall not be considered as validly registered within the meaning of this article unless a validating sticker or stickers is displayed on the vessel.

§ 2254. Registration record. Upon the issuance of a registration for a vessel, as provided in this article, the commissioner shall enter upon the records of the department the registration of such vessel under the registration number assigned to such vessel as provided in this article, and in any other manner which he deems appropriate.

§ 2255. Temporary registration. A temporary registration may be issued by a dealer registered in accordance with the provisions of this article to the purchaser of a vessel sold by the dealer provided the dealer makes application on behalf of the owner for a registration under section twenty-two hundred fifty-one of this article no later than five calendar days after the issuance of the temporary registration. Such temporary registration shall be valid, if issued and used in accordance with regulations promulgated by the commissioner, for the operation of the vessel for which it is issued for thirty days after the date of issuance. Such temporary registration may be extended by the commissioner for an additional thirty days. The commissioner shall provide registered boat dealers with documents and forms to be used in the issuance of such temporary registrations.

§ 2256. Suspension and revocation of registrations; offenses; penalties. 1. The commissioner may suspend any registration pursuant to this article for violation of this article or a violation of the navigation law upon the recommendation of the commissioner of parks, recreation and historic preservation by the holder thereof. Such suspension or revocation shall be ordered only after a hearing, unless

waived. However, the commissioner may temporarily suspend a registration pending a hearing.

2. Any person who violates any provisions of this article or regulation adopted pursuant thereto shall be guilty of a violation punishable as provided in the penal law except the maximum fine may not exceed one hundred dollars.

§ 2257. Registration of dealers. 1. For the purposes of this article, a dealer shall be any person engaged in the business of buying, selling or trading vessels. A person who sells three or more vessels for profit within one calendar year shall be presumed to be a dealer if such vessels were purchased, acquired or otherwise obtained by such person for the purpose of resale, and were never placed in his consumer use. On and after April first, nineteen hundred eighty-six, no person shall engage in business as a dealer, or represent or advertise that he is engaged, or intends to engage, in such business in this state, unless there shall have been issued to him a certificate of registration as provided in this section. A person shall not be required to be registered as a dealer if he sells no vessels other than vessels determined by regulation of the commissioner to be vessels or devices which would not ordinarily be considered as usable for transportation on water.

2. Application for registration. Every dealer shall file an application for registration as a dealer with the commissioner of motor vehicles, together with all required fees, in such form and detail and containing such information as the commissioner shall reasonably prescribe.

3. Issuance of certificate. If the commissioner approves the application, he shall issue a certificate of registration in such form as he may prescribe. For the purposes of implementing this article, the commissioner may, in his discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision five of this section for such

certificate shall be prorated on a monthly basis.

4. Demonstrator numbers and trailer number plates. (a) Upon payment of the required fee, a dealer shall be entitled to receive one or more demonstrator numbers, which may be used in lieu of a registration issued under section twenty-two hundred fifty-one of this article for the operation of any vessel owned or controlled by the registrant and held for sale or demonstration. Demonstrator numbers shall be displayed in a manner prescribed by the commissioner.

(b) Upon payment of the required fee, a dealer shall be entitled to receive one or more number plates which may be used in lieu of any registration issued under section four hundred one of this chapter for the operation of any boat trailer owned or controlled by the dealer and held for the purpose of sale or demonstration, provided such operation is directly related to the sale or demonstration of any boat trailer or vessel. The provisions of section four hundred two of this chapter with respect to the care and display of number plates shall apply to number plates issued under this subdivision.

(c) The commissioner may, in his discretion, limit the number of demonstrator numbers or number plates which shall be issued to any registrant. The fee for the replacement of lost, mutilated, or destroyed demonstrator numbers or number plates shall be two dollars.

5. Fees. Every application, other than a renewal application, shall be accompanied by an application fee of ten dollars, which shall in no event be refunded. The triennial fee for such registration or renewal thereof shall be seventy-five dollars. The triennial fee for demonstrator numbers or number plates shall be sixty dollars for each number or number plate. The application for registration, demonstrator numbers and number plates shall be accompanied by the required fees. There shall be no refund of any registration fee or any fee for demonstrator numbers or number plates.

6. No dealer shall sell a vessel except in accordance with regulations established by the commissioner. The commissioner may, in his discretion, require a registrant to maintain a record in a prescribed form of all vessels received or disposed of by him. Upon request of an

agent of the commissioner or of any peace officer acting pursuant to his special duties, a registrant shall produce such records and permit said agent or peace officer to examine them, and any vessels on the premises subject to the record keeping requirements of this section during usual business hours or while the registrant is conducting business. The failure to produce such records or to permit such inspection as required by this subdivision shall be a violation.

§ 2257-a. Suspension, revocation or refusal to issue dealer registration; suspension or revocation of dealer demonstrator number or trailer plate; suspension of authority to issue temporary registration; civil penalty. 1. Suspension, revocation and refusal to renew a registration, demonstrator number or number plate. The commissioner may deny the application of any person for registration under section twenty-two hundred fifty-seven of this article or suspend or revoke a certificate of registration, demonstrator number or number plate issued under such section or refuse to issue a renewal thereof if he determines that such applicant or registrant or any other person directly or indirectly interested in the business:

(a) has made a material false statement or concealed a material fact in connection with his application;

(b) has used or permitted the use of demonstrator numbers or number plates contrary to law;

(c) has been guilty of fraud or fraudulent or deceptive practices, or has practiced dishonest or misleading advertising;

(d) does not have a place of business as defined by regulation of the commissioner;

(e) was the former holder, or was an officer, director, stockholder, or partner, in a corporation or partnership which was the former holder of a dealer's registration, which was suspended or revoked by the commissioner; or

(f) has failed to comply with any of the rules and regulations of the commissioner for the enforcement of this article or with any provision of this chapter applicable thereto.

2. In lieu of suspending or revoking the certificate of registration

of a dealer, the commissioner may, for any of the grounds specified in subdivision one of this section, suspend the authority of a dealer to issue temporary registrations pursuant to section twenty-two hundred fifty-five of this article.

3. Civil penalty. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending the certificate of registration, or in addition to suspending the authority to issue temporary registrations, may in any one proceeding by order require the registrant to pay to the people of this state a penalty in a sum not exceeding one thousand dollars for each violation and upon the failure of such registrant to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered, and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may suspend the certificate of registration of such registrant until such penalty is paid. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgment of a court of record.

4. No certificate of registration, demonstrator number or number plate shall be suspended or revoked, civil penalty imposed or authority to issue temporary registrations suspended until such registrant shall have been given the opportunity to be heard, upon written notice to the registrant, before an officer or employee of the department designated for such purpose by the commissioner. However, the commissioner may

temporarily suspend a registration, demonstrator numbers or number plates and/or the authority to issue temporary registrations pending a hearing.

Upon the denial of an application for a certificate of registration, the applicant shall, upon written request made within ten days after the applicant is notified of such denial, be entitled to a hearing before an officer or employee of the department designated for such purpose by the commissioner.

5. Following the suspension or revocation of the certificate of registration of a dealer, demonstrator numbers or number plates, or the suspension of the authority to issue temporary registrations, pursuant to this section, the failure of the holder or any other person possessing the certificate of registration, demonstrator numbers, number plates or temporary registrations, issued to a dealer pursuant to the regulations of the commissioner, to deliver the same to the suspending or revoking officer is a misdemeanor. Failure of the holder or any person possessing the certificate of registration to deliver the same to any peace officer acting pursuant to his special duties, directed by the commissioner to secure possession thereof shall be a misdemeanor.

§ 2257-b. Yacht brokers. 1. A yacht broker is any person who, for a fee or commission, acts as an agent for either the buyer or seller of a vessel. On and after April first, nineteen hundred eighty-six, a person who engages in business as a yacht broker shall certify to the commissioner that he is a yacht broker. The failure of a person engaged in business as a yacht broker to certify to the commissioner that he is a yacht broker shall be a violation.

2. A yacht broker shall be required to keep records of all transactions concerning the purchase and sale of any vessel in which he acted as agent for either the buyer or seller. Such records shall be maintained in a manner prescribed by the commissioner and shall be available upon request during business hours to any peace officer or agent of the commissioner. The failure to produce such records as

required by this section shall be a violation.

§ 2258. Rules and regulations. The commissioner is hereby empowered to make such rules and regulations as he may deem necessary to carry out the provisions of this article.

ARTICLE 48-A

REGISTRATION OF LIMITED USE VEHICLES

Section 2260. General provisions.
2261. Registration.
2262. Limitations on registrations.
2263. Revocation and suspension.
2264. Display of registration number plate or plates.
2265. Equipment, inspection and insurance.
2267. Dealers and manufacturers.
2268. Motor-assisted vehicle.
2269. Exemptions.
2270. Rules and regulations.

§ 2260. General provisions. Except as otherwise expressly provided herein, all of the provisions of this chapter shall apply to a limited use vehicle in the same manner as if such vehicle was not a limited use vehicle.

§ 2261. Registration. 1. Except as hereinafter provided, no person shall operate any limited use vehicle on a public highway or street within this state unless such limited use vehicle has been registered in accordance with the provisions of this article, and the registration for such limited use vehicle is in full force and effect and the registration number plate or plates are displayed as hereinafter provided.

2. A certificate of registration issued pursuant to this article shall

indicate that the registration is limited to use as provided in section twenty-two hundred sixty-two of this chapter. No application for registration shall be accepted unless the applicant is at least sixteen years of age.

3. Fees. (a) The fees for the registration, renewal, reregistration or amendment or duplicate of a registration of a limited use automobile shall be the same fees as if such vehicle were registered pursuant to section four hundred one of this chapter.

(b) The annual fee for the registration, renewal, reregistration or amendment or duplicate of a registration of a limited use motorcycle shall be six dollars and twenty-five cents. Any such registration, renewal, or reregistration shall take effect and expire on dates to be determined by the commissioner. A fee for a registration for periods of more or less than one year shall not be prorated.

4. Carrying certificate. Every person operating a limited use vehicle registered in accordance with any of the provisions of this article, shall, upon the demand of any magistrate, police officer, peace officer, when acting pursuant to his special duties, or motor vehicle hearing officer produce for inspection the certificate of registration for such limited use vehicle and shall furnish to such person any information necessary for the identification of such limited use vehicle and its owner. The failure to produce the certificate of registration as provided herein shall not be an offense, but shall be presumptive evidence of operating a limited use vehicle which is not registered as required by this article.

5. Out-of-state limited use vehicle registration. The registration provisions of this article shall not apply to a non-resident who has registered his limited use vehicle in compliance with the registration or licensing laws of the state, province or country of his residence, provided that the limited use vehicle so registered in accordance with the laws of the state, province or country of residence of such owner is appropriately identified by an identification plate, sticker or other identifying device issued by such state, province or country.

6. Registration at time of sale. Every limited use motorcycle, as defined by section one hundred twenty-one-b of this chapter, sold by a dealer shall be registered at the time of sale of such vehicle. Such registration shall take effect and expire on dates to be determined by the commissioner. Any limited use motorcycle purchased for use exclusively outside of the state of New York shall not require registration at the time of purchase, and the purchaser of such limited use motorcycle shall sign a declaration, provided by the dealer, which shall state that such purchaser understands the conditions under which a limited use motorcycle must be registered and the penalty for violation of such registration provisions. Each signed declaration shall be forwarded by the dealer to the commissioner. The form of such declaration shall be provided by the commissioner to each dealer.

§ 2262. Limitations on registrations. 1. A registration issued to a class B or class C limited use motorcycle shall be valid only for operation on public highways in the right hand lane available for traffic or upon a usable shoulder on the right side of the highway. The limitation with respect to operation in the right hand lane or upon a usable shoulder shall not apply when preparing for a left turn at an intersection or into or from a private road or driveway.

2. Notwithstanding the foregoing provisions of this section, a registration issued pursuant to this article shall not be valid for operation on any public highway in violation of any state or local ordinance, law, rule or regulation enacted or promulgated pursuant to the provisions of Title VIII of this chapter prohibiting or restricting the use of limited use vehicles, nor on any controlled access highway other than on a bridge or tunnel or other portion of such highway which is specifically designated for use by limited use vehicles by the authority having jurisdiction over such bridge or tunnel or highway.

3. No person shall operate a limited use vehicle on a public highway where such operation is not permitted in accordance with the provisions of this section.

4. No person shall operate a low speed vehicle on any public highway:

(a) with a speed limit in excess of thirty-five miles per hour, provided that the provisions of this paragraph shall not prohibit the crossing of a public highway with a speed limit in excess of thirty-five miles per hour where such highway intersects with a highway with a speed limit of thirty-five miles per hour or less; or

(b) which, in the interest of public safety, a local authority or the department of transportation has prohibited low speed vehicles.

§ 2263. Revocation and suspension. In addition to revocation or suspension of a registration pursuant to any other provision of this chapter, all registrations issued to a registrant pursuant to this article may be revoked where the holder is convicted of a second or subsequent violation committed within a period of twelve months of subdivision three of section twenty-two hundred sixty-two of this chapter. Where a revocation is issued pursuant to this section, no new limited use vehicle registration shall be issued to such person for a period of one year from the date of such revocation.

§ 2264. Display of registration number plate or plates. 1. The registration number plate or plates assigned to a limited use vehicle shall be displayed on the vehicle at all times such vehicle is operated on the public highways in such manner as the commissioner may, be regulation, prescribe. One registration number plate shall be issued by the commissioner for a limited use motorcycle. One or two registration number plates, as determined by the commissioner, shall be issued by the commissioner for a limited use automobile. No number other than the registration number plate assigned to a limited use vehicle by the commissioner, or the identification number of the registration issued by another state shall be painted, attached or otherwise displayed on a limited use vehicle when such vehicle is being operated on a public highway. Nothing herein shall prohibit the display of a vehicle identification number plate or number affixed by the manufacturer or his agent in accordance with section twenty-two hundred sixty-seven of this chapter.

2. Dealer demonstrator number plates shall conform to the requirements set forth in subdivision one of this section with the exception that such number plates may be temporarily but firmly affixed to the limited use vehicle being demonstrated or tested.

3. The use of dealer demonstrator number plates shall be subject to the provisions of sections four hundred fifteen and four hundred sixteen of this chapter.

4. No dealer shall permit a dealer demonstrator number plate to be used on any vehicle unless such vehicle would qualify for the issuance of such a number plate when registered.

§ 2265. Equipment, inspection and insurance. 1. Equipment. Unless otherwise prescribed by regulation of the commissioner, a limited use automobile shall be subject to the equipment requirements of this chapter which are applicable to a passenger motor vehicle. Unless otherwise prescribed by regulation of the commissioner, a limited use motorcycle shall be subject to the equipment requirements which are applicable to a motorcycle. The operator of a limited use motorcycle shall be subject to the requirements of subdivisions six and seven of section three hundred eighty-one of this chapter, except that the requirements of subdivisions six and seven of section three hundred eighty-one of this chapter shall not be applicable to the operator of a class C limited use motorcycle. The commissioner may, by regulation, provide for different equipment requirements for different classes of limited use motorcycles. As far as practicable, such regulations, if promulgated by the commissioner, shall be consistent with federal motor vehicle safety standards established for similar vehicles. No person shall operate a limited use vehicle on the public highways of this state in violation of the provisions of this section or regulations promulgated by the commissioner thereunder.

2. Inspection. (a) Limited use automobiles and class A limited use motorcycles shall be subject to the inspection requirements of article

five of this chapter. The commissioner may, by regulation, provide for different inspection procedures for different types of limited use automobiles.

(b) Class B and class C limited use motorcycles shall be exempt from any inspection requirements.

3. Insurance. The provisions of articles six, seven and eight of this chapter shall be applicable to limited use vehicles, except that the provisions of article six of this chapter shall not apply to class C limited use motorcycles.

§ 2267. Dealers and manufacturers. 1. No person shall engage in the business of selling limited use vehicles unless there shall have been issued to him a dealer registration in accordance with section four hundred fifteen of this chapter. The commissioner may, by regulation, provide for identification of dealers as dealers in limited use vehicles, and he shall make provision for the issuance of appropriate dealer demonstrator number plates to such dealers.

2. No dealer shall acquire any limited use vehicle for the purpose of resale for use on the public highways within this state unless such limited use vehicle has a vehicle identification number in a form and manner acceptable to the commissioner permanently affixed to the frame by the manufacturer or authorized agent of the manufacturer.

3. The commissioner may prescribe, by regulation, procedures to be followed by dealers with respect to record keeping and documents required upon the sale of a limited use vehicle, and procedures to be followed by manufacturers with respect to the assignment and affixing of vehicle identification numbers.

§ 2268. Motor-assisted vehicle. Notwithstanding any other provision of this chapter, a vehicle which is primarily designed to be propelled by human power shall not be entitled to registration as a limited use vehicle because of the addition of a motor. The commissioner shall

determine whether any vehicle is primarily designed to be propelled by human power.

§ 2269. Exemptions. 1. Fire and police vehicles are exempt from the provisions of this article, except that the operator of such a vehicle shall be required to be licensed as provided in article nineteen of this chapter.

2. Any limited use vehicle registered pursuant to this article which would be exempt from the payment of registration fees if such vehicle were to be registered pursuant to title four of this chapter, shall be exempt from the payment of registration fees under this article.

§ 2270. Rules and regulations. The commissioner is hereby empowered to make such rules and regulations as he may deem necessary to carry out the provisions of this article, including procedures with respect to the certification of maximum performance speed of limited use vehicles.

ARTICLE 48-B

REGISTRATION OF ALL TERRAIN VEHICLES

Section 2280. Jurisdiction of department.
2281. Definitions.
2282. Registration and permit.
2283. Display of registration.
2284. Registration record.
2285. Certificate of registration.
2286. Licensing by municipalities.
2287. Special events.
2288. Responsibility for operation by minors.
2289. Violations.
2290. Rules and regulations.
2291. Disposition of fees.

§ 2280. Jurisdiction of department. 1. The registration of all terrain vehicles shall be under the jurisdiction of the department of motor vehicles.

2. Except as otherwise expressly provided herein, all of the provisions of this chapter shall apply to all terrain vehicles.

§ 2281. Definitions. For the purposes of this article: 1. (a) "All terrain vehicle" or "ATV" means any self-propelled vehicle which is manufactured for sale for operation primarily on off-highway trails or off-highway competitions and only incidentally operated on public highways providing that such vehicle does not exceed seventy inches in width, or one thousand pounds dry weight. Provided, however, this definition shall not include a "snowmobile" or other self-propelled vehicles manufactured for off-highway use exclusively designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or cleats which utilize an endless belt tread.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the term "all terrain vehicle" or "ATV" shall not include any vehicle used for agricultural purposes or for snowplowing, other than for hire, provided, however, that any such vehicle shall register as an "all terrain vehicle" or "ATV" pursuant to the provisions of this article if such vehicle is used or is intended to be used for any purpose other than agricultural purposes or for snowplowing and shall be regulated in accordance with provisions governing the operation of "all terrain vehicles" or "ATV's" while in such use.

2. "Dealer" means any person engaged in the business of selling ATVs at wholesale or retail.

§ 2282. Registration and permit. 1. Except as hereinafter provided, no person shall operate any ATV within the state unless such ATV has been registered and numbered in accordance with the provisions of this article, and the registration number for such ATV is in full force and

effect and displayed as provided under this article and regulations promulgated thereunder.

2. The commissioner is authorized to register an ATV, issue a registration certificate and assign a registration number to such ATV. All such registrations shall be valid for a period prescribed by the commissioner unless, prior to expiration of the period prescribed by the commissioner, it is surrendered, cancelled, revoked or suspended pursuant to the provisions of this article.

3. Unless otherwise prescribed by regulation of the commissioner, a number once assigned under this section shall remain with the registered ATV until the ATV is destroyed, abandoned or permanently removed from the state, or until changed or terminated by the commissioner.

4. Fees. Fees for registration of ATVs to be collected by the commissioner under this article are as follows.

(a) An annual fee of twelve dollars and fifty cents for each individual resident registration.

(b) An annual fee of twelve dollars and fifty cents for each individual nonresident registration.

(c) An annual fee of twenty-five dollars for each dealer registration.

(d) An annual fee of five dollars for each additional dealer demonstrator registration number.

(e) A fee of three dollars for replacement of a lost, mutilated or destroyed certificate.

(f) Provided, however, that the provisions of paragraphs (c) and (d) of this subdivision with respect to the payment of dealer registration fees shall not apply to dealers registered pursuant to section four hundred fifteen of this chapter.

(g) Annual fees shall not be prorated and such fees shall be applicable to a year or any portion of a year.

Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in paragraphs (a) and (b) of this subdivision in effect on and after September first, two thousand nine and the fees set forth in such paragraphs in effect prior to such date shall be deposited to the credit of the dedicated highway

and bridge trust fund.

5. Application. The owner of each ATV requiring registration under this section shall present an application for registration to the commissioner, on a blank to be prepared and furnished by the commissioner for that purpose. Such application shall contain or be accompanied by such evidence of the ownership of the ATV described in the application as may be required by the commissioner.

6. Dealers. (a) Any person who is a dealer, and who is not registered as a dealer pursuant to section four hundred fifteen of this chapter, shall register as an ATV dealer and operate in accordance with the rules and regulations of the commissioner for ATV dealers. The commissioner, upon receipt of an application and the required fee, shall assign a distinctive dealer registration number to the registrant and issue an appropriate registration certificate to him and assign two dealer demonstrator registration numbers and upon the payment of the appropriate fee, such additional numbers as shall be requested. Dealer registrations and dealer demonstrator registration numbers shall not be transferable. Provided, however, the commissioner may limit the number of dealer demonstration registration numbers issued to a dealer.

(b) No dealer shall sell or offer for retail sale any ATV, other than an ATV identified and sold for use only in off-highway competitions, which is not equipped with all equipment necessary for the registration of an ATV.

6-a. Registration at time of sale. Every all terrain vehicle defined by section twenty-two hundred eighty-one of this article sold by a dealer shall be registered at the time of sale of such vehicle. Such registration shall be valid until the thirty-first day of August following the date of such sale; provided, however, that any all terrain vehicle sold after April first of each year shall be issued a registration valid until the thirty-first day of August in the year following that in which the all terrain vehicle is sold. Any all terrain vehicle purchased for use exclusively outside of the state of New York shall not require registration at the time of purchase, and the purchaser of such all terrain vehicle shall sign a declaration, provided

by the dealer, which shall state that such purchaser understands the conditions under which an all terrain vehicle must be registered and the penalty for violation of such registration provisions. Each signed declaration shall be forwarded by the dealer to the commissioner. The form of such declaration shall be provided by the commissioner to each dealer.

7. Renewal. Every owner of an ATV and dealer shall renew his registration in such manner as the commissioner shall prescribe, on payment of the same registration fees as provided in subdivision four of this section.

8. Indicia of registration. At the time of the original registration and at the time of each renewal thereof, the commissioner shall also issue validating forms in a manner he has prescribed indicating the validity of the current registration and the expiration date thereof, which indicia of registration shall be affixed to the vehicle in such manner as the commissioner may prescribe.

No ATV shall be considered as validly registered within the meaning of this section unless a current registration certificate, registration number and current indicia of registration have been issued.

9. Equipment required. No ATV shall be registered, nor shall such a registration be renewed, unless the ATV is equipped with brakes, muffler, spark arrester and tires as prescribed in subdivision one of section twenty-four hundred six of this chapter.

10. ATVs owned by governmental agencies. A registration number shall be assigned, without payment of a fee, for ATVs owned by governmental agencies, or by volunteer organizations if used exclusively for emergency purposes, provided that each such ATV shall display the proper registration number assigned to it.

11. Exemption. No registrations shall be required for the following described ATVs:

(a) ATVs owned and used by the United States, another state, or a

political subdivision thereof, but such ATV shall display the name of the owner on the vehicle thereof.

(b) ATVs covered by a valid registration or license of another state, province or country, as provided in subdivision twelve of this section.

12. Out of state ATV registration. The registration provisions of this article shall not apply to non-resident owners who have registered their ATVs in compliance with the registration and licensing laws of the state, province, district or country of residence, provided that the ATV is appropriately identified in accordance with the laws of the state of residence. The provisions of this subdivision shall not apply to a resident of another state, province, district or country which does not have an ATV registration and identification law. Nothing in this subdivision shall be construed to authorize the operation of any ATV contrary to the provisions of this article.

§ 2283. Display of registration. 1. The registration number with indicia of registration assigned to an ATV shall be displayed on the vehicle at all times in such a manner as the commissioner may, by regulation, prescribe.

2. Dealer demonstrator registration numbers shall conform to the requirements set forth in subdivision one of this section with the exception that, unless otherwise prescribed by regulation of the commissioner, the numbers assigned may be printed upon or attached to a removable plaque or plaques to be temporarily but firmly affixed to the ATV being demonstrated or tested.

3. Numbers issued to dealers and manufacturers for the purpose of demonstration or testing shall be used exclusively for these purposes and no other use is permitted.

§ 2284. Registration record. Upon receipt of sufficient application for registration of an ATV, as provided in this article, the commissioner shall enter upon the records of the department the

registration of such vehicle under the distinctive number assigned to such ATV as provided in this article.

§ 2285. Certificate of registration. 1. Certificate. Upon the filing of the application and payment of the fee as provided in this article, the commissioner shall assign to such ATV a distinctive number, and, without further expense to the applicant, issue a certificate of registration, in such manner and form as the commissioner shall prescribe. In the event of the loss, mutilation or destruction of any certificate of registration, the owner of the registered ATV may file such statement and proof of the facts as the commissioner shall require with a fee of three dollars, with the department, for the issuance of a duplicate or substitute.

2. Carrying certificate. Every person operating an ATV registered in accordance with any of the provisions of this article shall, upon demand of any magistrate, police officer or peace officer, when acting pursuant to his special duties, produce for inspection the certificate of registration for such ATV and shall furnish to such person any information necessary for the identification of such ATV and its owner. The failure to produce the certificate of registration as provided herein shall not be an offense, but shall be presumptive evidence of operating an ATV which is not registered as required by this article.

3. Change of residence. It shall be the duty of every owner holding a certificate of registration to notify the department, in writing, of any change of residence of such owner within ten days after such change occurs, and to inscribe on such certificate, in the place provided a record of such change of residence.

4. Change of ownership. Whenever an ATV is transferred, the certificate of registration shall be properly signed and executed by the owner showing that the ownership of the ATV has been transferred and such certificate shall be given to the new owner. In the case of transfer, except a transfer to a registered dealer, the new owner shall apply for a new certificate by completing an application for

registration. Such application shall be submitted to the department together with old certificate of registration, properly signed by the previous owner, and the required fee of ten dollars. The old certificate of registration, properly signed by the previous owner or other indicia as prescribed by regulation of the commissioner, shall constitute a temporary registration for such new owner for a period determined by the commissioner from the date such ATV was transferred to the new owner. In the event that such ATV was purchased from a registered dealer, the application must be accompanied by the old certificate of registration transferred to the dealer, the required fee, and by any other forms or documents completed and submitted as prescribed by the commissioner.

5. Destruction, theft or removal from state. It shall be the duty of every owner of an ATV registered pursuant to the provisions of this article to notify the department, in writing, of the destruction, theft or permanent removal of such ATV from the state, within fifteen days of acquiring knowledge thereof. In the event of destruction or theft, the certificate or registration shall be surrendered with such notice.

§ 2286. Licensing by municipalities. No municipality shall require licensing or registration of ATVs which are covered by the provisions of this article. Nothing herein shall prohibit the requirement of a permit by the agency or municipality having jurisdiction over any state or local park or any other public lands for use of ATVs on such public lands. A municipality may charge a fee for use of ATVs on such public lands.

§ 2287. Special events. ATVs operated at special events pursuant to section twenty-four hundred eight of this chapter may be exempted from the provisions of this article concerning registration.

§ 2288. Responsibility for operation by minors. No owner or other person in possession of any ATV shall authorize or knowingly permit any person under sixteen years of age to operate such ATV in violation of

any provision of this article.

§ 2289. Violations. Any person who violates any provision of this article or regulation adopted pursuant thereto shall be guilty of a traffic infraction.

§ 2290. Rules and regulations. The commissioner shall make such rules and regulations as he may deem necessary to carry out the provisions of this article.

§ 2291. Disposition of fees. The commissioner shall deposit all monies received from the registration of ATVs and all fees otherwise collected under this article to the credit of the general fund, as prescribed by section twenty-two hundred eighty-two of this chapter.

ARTICLE 48-C

RULES FOR OPERATION

OF ALL TERRAIN VEHICLES

Section 2400. Legislative purpose.
2401. Definitions.
2402. Rules and regulations.
2403. Operation of ATVs; where permitted.
2404. Operating rules.
2405. Designation of highways and public lands for travel by ATVs.
2406. Equipment.
2407. Liability insurance.
2408. Special events.
2409. ATV safety course and safety certificate.
2410. Operation by minors.
2411. Liability for negligence.
2412. Service on nonresidents and certain residents, administrators or executors.

2413. Accidents; reports.

§ 2400. Legislative purpose. It is the purpose of this article to promote the safe and proper use of ATVs for recreation and commerce in this state, to ensure the safety and well-being of all persons concerning the use of ATVs, to minimize detrimental effects of such use upon the environment, and to provide a method whereby municipalities shall consider the designation of appropriate public lands for ATV use and regulation thereof.

§ 2401. Definitions. As used in this article, unless the context requires otherwise:

1. "Governmental agency" means any agency of the state of New York and all municipalities within the state.

2. "All terrain vehicle" or "ATV" means an all terrain vehicle or ATV as defined in section twenty-two hundred eighty-one of this chapter.

3. "Owner" means any person having a title to an ATV. If an ATV is sold under a contract of conditional sale whereby the title remains in the vendor, such vendor or his assignee shall not, after delivery of such ATV, be deemed an owner within the provisions of this section, but the vendee or his assignee, upon receipt of possession thereof, shall be deemed such owner notwithstanding the terms of such contract, until the vendor or his assignee shall retake possession. A person holding only a security interest in an ATV shall not be deemed an owner unless such person also has possession of such ATV.

4. "Operate" means to ride in or on, other than as a passenger, or use or control the operation of an ATV in any manner, whether or not said ATV is under way.

5. "Operator" means every person who operates or is in actual physical control of an ATV.

6. "Special event" shall mean an organized rally, race, exhibition or demonstration of limited duration which is conducted according to a prearranged schedule and in which general public interest is manifested.

7. "Authorized emergency ATV" shall mean an ATV designated as such in writing by the chief executive officer of any duly organized volunteer ambulance company, fire department, or paid fire department, operated by a member thereof and equipped with emergency lights as provided in section twenty-four hundred six of this article.

8. "Authorized police ATV" shall mean an ATV operated by a police or other peace officer while engaged in the performance of his official duties within the area of his territorial jurisdiction.

9. "Authorized civil defense ATV" shall mean an ATV designated as such in writing by the chief executive officer of a municipality and operated by a member of a civil defense organization of the municipality and equipped with emergency lights as provided in section twenty-four hundred six of this article.

10. "Operation as emergency vehicle" shall mean the operation or parking of an authorized emergency ATV, police or civil defense ATV, including attendant equipment, displaying emergency lights as provided in section twenty-four hundred six of this article and which ATV is engaged in transporting a sick or injured person to the nearest medical facility or appropriate site for transfer to an ambulance as defined in article thirty of the public health law, transporting emergency medical services, personnel and equipment to sick or injured persons, pursuing an actual or suspected violator of the law or responding to, or working or assisting at the scene of an accident, disaster, police call, alarm or other emergency but shall not include returning from such service.

§ 2402. Rules and regulations. With a view of achieving enjoyable and proper use of ATVs and minimizing the detrimental effect thereof upon the environment, rules and regulations relating to, but not limited to,

the following may be adopted and promulgated as herein provided.

1. The commissioner may adopt rules and regulations:

(a) for conducting special events as provided in section twenty-four hundred eight of this article;

(b) for the administration and enforcement of the provisions of section twenty-four hundred seven of this article relating to liability insurance;

(c) establishing a comprehensive ATV information and safety education and training program or programs including provision for issuance of ATV safety certificates for operation of ATVs by youthful operators;

(d) with respect to uniform signs or markers to be used by governmental agencies which are necessary or desirable to control, direct or regulate the operation and use of ATVs. Such signs as may be designated for use on highways shall also be approved by the commissioner of transportation; and

(e) with respect to such other matters as may be necessary or desirable to provide for the effective administration and enforcement of the provisions of this article.

2. Any state agency may adopt rules and regulations not inconsistent with the provisions of the vehicle and traffic law in a manner appropriate to such agency to permit or regulate the use of ATVs on specifically designated land, including highways, under its jurisdiction.

§ 2403. Operation of ATVs; where permitted. 1. Highways. No person shall operate an ATV on a highway except as provided herein.

(a) An ATV may make a direct crossing on a highway other than an interstate highway or a controlled access highway, provided:

(i) the crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(ii) the vehicle is brought to a complete stop before crossing the shoulder or main travelled way of the highway;

(iii) the driver yields the right-of-way to all oncoming traffic that

constitutes an immediate hazard;

(iv) in crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway, and

(v) if the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are lighted.

(b) An ATV may be operated on any highway which has been designated and posted as open for travel by ATVs in accordance with the provisions of section twenty-four hundred five of this article.

2. Public lands other than highways. No person shall operate an ATV on any public lands, waters and property other than a highway, except that an ATV may be operated on any such lands which have been designated and posted for travel by ATVs in accordance with the provisions of section twenty-four hundred five of this article.

3. Private property. No person shall operate an ATV on the private property of another without the consent of the owner or lessee thereof.

3-a. Real property of a farm operation. No person shall operate an ATV on the real property of a farm operation, as defined in subdivision eleven of section three hundred one of the agriculture and markets law, without the consent of the owner or lessee thereof, where such owner or lessee has erected or maintained any sign, structure, display, or device prohibiting the trespass thereon, and which shall include a sign stating: "No Trespassing". A violation of this subdivision shall be a traffic infraction, and shall, upon a conviction of a first violation be punishable by a fine of not more than two hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; upon a conviction of a second violation, both of which were committed within a period of eighteen months, shall be punishable by a fine of not more than four hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, shall be punishable by a fine of not more than five hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

4. Emergency vehicle. The provisions of subdivisions one, two and three of this section shall not apply to operation as emergency vehicle by any authorized emergency, police or civil defense all terrain vehicle.

§ 2404. Operating rules. 1. No person shall operate an ATV:

(a) at a rate of speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing;

(b) in a careless, reckless or negligent manner so as to unreasonably endanger the person or property of another or cause injury or damage thereto;

(c) on the tracks or right-of-way of an operating railroad;

(d) in any tree nursery or planting in a manner that damages or destroys growing stock, or creates a substantial risk thereto;

(e) while pulling a person on skis or drawing or towing a sleigh, sled, toboggan, inflatable device or trailer which carries or transports any person unless attached by a rigid support, connection or towbar;

(f) on the frozen surface of public waters: within one hundred feet of any person other than a person riding on an ATV except at the minimum speed required to maintain forward movement of the ATV, nor within one hundred feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the ATV nor on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the public water;

(g) within one hundred feet of a dwelling between midnight and six a.m., at a speed greater than minimum required to maintain forward movement of the ATV;

(h) on public lands, other than highways, or on private property of another while in an intoxicated condition or under the influence of narcotics or drugs.

2. The operator of an ATV shall:

(a) stop and yield to an authorized ambulance, civil defense, or police ATV or police vehicle being operated as an emergency vehicle and

approaching from any direction;

(b) comply with any lawful order or direction of any police officer or other person duly empowered to enforce the laws relating to ATVs.

3. No person shall ride on or in a sleigh, sled, toboggan, inflatable device or trailer which is being towed or trailed by an ATV unless attached by a rigid support, connection or towbar.

4. A person operating an ATV shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on an ATV unless such ATV is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the ATV at the rear or side of the operator.

5. For the purposes of title seven of this chapter, an ATV shall be a motor vehicle and the provisions of such title shall be applicable to ATVs.

6. Local laws and ordinances. Nothing contained in this article shall be deemed to limit the authority of a county, city, town or village from adopting or amending a local law or ordinance which imposes stricter restrictions and conditions on the operation of ATVs than are provided or authorized by this section so long as such local law or ordinance is consistent with its authority to protect the order, conduct, health, safety and general welfare of persons or property.

§ 2405. Designation of highways and public lands for travel by ATVs. 1. Highways. Except with respect to interstate highways or controlled access highways, the department of transportation with respect to state highways, maintained by the state and any other governmental agency with respect to highways, including bridge and culvert crossings, under its jurisdiction may designate and post any such public highway or portion thereof as open for travel by ATVs when in the determination of the governmental agency concerned, it is otherwise impossible for ATVs to

gain access to areas or trails adjacent to the highway. Such designations by a state agency shall be by rule or regulation, and such designations by any municipality other than a state agency shall be by local law or ordinance.

2. Public lands other than highways. A governmental agency other than a municipality, by regulation or order, and a municipality, by ordinance or local law, may designate any appropriate public lands, waters and properties other than highways under its jurisdiction as a place open for travel by ATVs upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of ATVs on such public property, such as travel on designated trails and hours of operation. In addition thereto, such agency or municipality may not require the operator of an ATV to possess a motor vehicle operator's license. A municipality may charge a fee for use of ATVs on such public lands.

3. Signs and markers. (a) Such designated highways or portions thereof or designated lands shall be identified by markers in such manner as may be provided by rules and regulations of the commissioner.

(b) All signs or markers shall be erected at the expense of the state or municipality, provided, however, that the municipality may accept funds or contributions therefor from private persons, clubs or associations interested in the promotion of ATVs.

4. Any regulation, order, local law or ordinance which designates a highway or portion thereof or designated lands which may be used for ATV operations may include rules and impose restrictions and conditions for the regulation and safe operation of ATVs on the highways and lands so designated, such as travel on designated trails and hours of operation. Any restriction or condition not contained in this chapter must be posted.

5. Copies of orders, regulations, local laws or ordinances adopted by governmental agencies pursuant to this section shall be filed with the commissioner.

§ 2406. Equipment. 1. No person shall operate an ATV unless it is equipped with:

(a) brakes in good operating condition;

(b) a muffler system in good operating condition which meets federal standards as established in 40 CFR (Code of Federal Regulations) Part 205.166, sub Part E;

(c) a spark arrester approved by the United States Forest Service;

(d) tires having at least two-thirty seconds of an inch of tread with no visible breaks, cuts, exposed cords, bumps or bulges;

(e) a lighted white headlight approved by the commissioner and a lighted red taillight approved by the commissioner when operated for one-half hour after sunset to one-half hour before sunrise.

2. No person shall operate an ATV or ride as a passenger on an ATV unless he is wearing a protective helmet of a type approved by the commissioner pursuant to subdivision six of section three hundred eighty-one of this chapter.

3. No person shall operate an ATV:

(a) on a highway with tires equipped with any studs other than automotive studs;

(b) except as an authorized emergency ATV, police, or civil defense ATV as an emergency vehicle, while displaying one or more lighted red or a combination red or white lights which are revolving, rotating, flashing, oscillating or constantly moving;

(c) as an authorized emergency ATV or civil defense ATV, as an emergency vehicle unless it is equipped with one or more lighted, red or combination red or white light or lights which is or are revolving, rotating, flashing, oscillating or constantly moving and which has or have minimum candle power of sufficient intensity to be plainly visible from a distance of five hundred feet in all directions under normal atmospheric conditions.

§ 2407. Liability insurance. 1. An ATV which is operated anywhere in this state other than on lands of the owner of the ATV shall be covered

by a policy of insurance, in such language and form as shall be determined and established by the superintendent of financial services, issued by an insurance carrier authorized to do business in this state. Such policy shall provide for coverages required of an "owner's policy of liability insurance" as set forth in paragraph (a) of subdivision four of section three hundred eleven of this chapter. In lieu of such insurance coverage as hereinabove provided, the commissioner, in his discretion and upon application of a governmental agency having registered in its name one or more ATVs, may waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance, when he is satisfied that such governmental agency is possessed of financial ability to respond to judgments obtained against it, arising out of the ownership, use or operation of such ATVs. The commissioner may also waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance upon application of any person or any other corporation, having registered in its name, one or more ATVs and furnishing of proof that a certificate of self-insurance has been issued and is in effect pursuant to the provisions of section three hundred sixteen of this chapter.

2. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such ATV upon the request of any magistrate or any person having authority to enforce the provisions of this chapter. The failure to produce such proof upon the request of any such person shall not be an offense but shall be presumptive evidence that the ATV is being operated without having such insurance in force and effect.

3. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such ATV to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of such ATV by the owner or operator, if such insurance coverage was required under the circumstances of such operation. It shall be an affirmative defense to any prosecution for a violation of this subdivision that such proof was so produced or displayed within twenty-four hours of receiving notice of such injury or damage, or the claim of such injury or damage.

4. No owner of an ATV shall operate or permit the same to be operated anywhere in this state other than on lands of the owner of the ATV without having in full force and effect the liability insurance coverage required by this section, and no person shall operate an ATV anywhere in this state other than on lands of the owner of the ATV with the knowledge that such insurance is not in full force and effect.

§ 2408. Special events. 1. The commissioner shall adopt and may, from time to time, amend rules and regulations determining the special events which shall be subject to permit and designating the equipment and facilities necessary for safe operation of ATVs and for the safety of operators, participants, and observers in such special events. Copies of such regulations shall be furnished by the commissioner to any person making an application therefor.

2. Whenever a special event is proposed to be held, the person in charge thereof shall, at least thirty days prior thereto, file an application with appropriate governmental agencies having jurisdiction over the site of such event to hold such special event. The application shall set forth the date and location of the proposed special event and such other information as the governmental agencies may require, and such event shall not be conducted without written authorization from such governmental agencies. Governmental agencies shall either grant or deny authorization to hold a special event within thirty days after receipt of an application for authorization. The commissioner shall be furnished with a copy of all such applications. No permit shall be required for a closed-circuit special event held entirely on private property, but appropriate governmental agencies shall be notified of such event at least thirty days prior thereto.

3. ATVs operated at special events shall be exempted from the provisions of this article concerning mufflers, lights and tires during the time of such event, including all pre-race practice at the location of said event.

§ 2409. ATV safety course and safety certificate. 1. Safety course or courses. The commissioner shall establish a curriculum or curricula for an ATV safety training course or courses. Any such curriculum may include, but not be limited to, on-vehicle training and safe riding practices. The commissioner may establish different courses and curricula for different types of all terrain vehicles. The commissioner may permit any such safety training course to be given by any private person, club, association or municipality which meets standards established by the commissioner. The commissioner may establish a reasonable fee which any such person or entity may charge for such course or courses.

2. Safety certificate. Upon successful completion of a safety course given in conformity with subdivision one of this section by a person fourteen years of age or over, the person or entity which gave the course shall notify the commissioner of such completion in a manner prescribed by the commissioner. The commissioner shall, upon receipt of such information, issue an ATV safety certificate to the person who has successfully completed the course. Such certificate may be limited to the type of vehicle for which the course was given.

§ 2410. Operation by minors. 1. Except as provided by subdivision two of this section, no person under the age of sixteen years shall operate an ATV except upon lands owned or leased by his or her parent or guardian, unless he or she is under general supervision of a person eighteen years of age or over. "Leased lands" as herein used shall not include lands leased by an organization of which said operator or his or her parent or guardian is a member.

2. A person fourteen years of age but less than sixteen years of age who has received safety training as prescribed by the commissioner and has received the appropriate ATV safety certificate issued by the commissioner may operate an ATV in the same manner as a person who is sixteen years of age or older.

3. The failure of a person to exhibit an ATV safety certificate upon demand to any magistrate or any other officer having authority to enforce the provisions of this article shall not be an offense, but shall be presumptive evidence that such person is not the holder of such certificate.

4. No parent or guardian shall authorize or knowingly permit his child or ward, if under sixteen years of age, to operate an ATV in violation of any provision of this article, any rules or regulations promulgated thereunder, or the provisions of any local law or ordinance.

5. No owner or other person in possession of any ATV shall authorize or knowingly permit any person under sixteen years of age to operate such an ATV in violation of any provision of this article, any rules or regulations promulgated thereunder, or the provisions of any local law or ordinance.

§ 2411. Liability for negligence. Negligence in the use of operation of an ATV shall be attributable to the owner. Every owner of an ATV used or operated in this state shall be liable and responsible for death or injury to person or damage to property resulting from negligence in the use or operation of such ATV by any person using or operating the same with the permission, express or implied, of such owner, provided, however, that such operator's negligence shall not be attributed to the owner as to any claim or cause of action accruing to the operator or his legal representative for such injuries or death.

§ 2412. Service on nonresidents and certain residents, administrators or executors. For the purposes of section two hundred fifty-two of this chapter, an ATV shall be a vehicle and the provisions of that section and section two hundred fifty-three of this chapter shall apply to ATVs.

§ 2413. Accidents; reports. 1. The operator of any ATV involved in any accident resulting in injuries to or death of any person or in which

property damage in the estimated amount of six hundred dollars or more is sustained, shall immediately notify the nearest law enforcement agency and shall within ten days after such accident report the matter in writing to the department, with a copy thereof to the sheriff or police commissioner of the county in which said accident occurred. If such operator is physically incapable of making such report and there is another participant in the accident not so incapacitated such participant shall make the report within the allotted time after such accident. In the event that there is no other participant and the operator is other than the owner, then the owner shall within the prescribed period of time, after learning of the facts of such accident, report the matter to the department, together with such information as may have come to his knowledge relating to such accident. Every such operator of an ATV, or participant of any such accident, or the owner, of the ATV involved in any such accident, shall make such other and additional reports as the commissioner shall require.

2. Whenever any ATV meets with an accident involving a loss of life, personal injury or damage to property and the operator thereof has knowledge of such accident, he shall stop and give his name and address, the name and address of the owner thereof and the registration number assigned to said ATV to the injured person or the person sustaining the damage, or to a peace or police officer. In the event the person sustaining the damage is not present at the place where the damage occurred, the operator shall, as soon as physically able, report the same to the nearest law enforcement agency.

3. A peace, police, or judicial officer who investigates or receives information of an accident involving an ATV shall make a written report of the investigation or information received, and such additional facts relating to the accident as may come to his knowledge and mail the same within forty-eight hours to the department and keep a record thereof in his office.

4. Failure of any person to report an accident as herein provided or failure to give correctly the information required of him by the commissioner in connection with such report shall be a misdemeanor and

shall constitute a ground for suspension or revocation of the ATV safety certificate of any person or the certificate of registration of any ATV involved in the accident. The commissioner may temporarily suspend the ATV safety certificate of the person failing to make such report or the certificate of registration of the ATV involved in the accident until such report has been filed.

TITLE XII

EFFECT OF AND SHORT TITLE OF CHAPTER; SAVING CLAUSES; LAWS REPEALED; TIME TO TAKE EFFECT

Article 49. Effect of and short title of chapter.
50. Saving clauses; laws repealed; time to take effect.

ARTICLE 49

EFFECT OF AND SHORT TITLE OF CHAPTER

Section 3000. Uniformity of interpretation.
3001. Short title.
3002. Local laws, ordinances, orders, rules, regulations, administrative code provisions and sanitary and health code provisions continued.
3003. Reference to existing laws.
3004. Constitutionality.

§ 3000. Uniformity of interpretation. Titles one, seven and succeeding titles shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them.

§ 3001. Short title. This chapter shall be known as the vehicle and traffic law.

§ 3002. Local laws, ordinances, orders, rules, regulations, administrative code provisions and sanitary and health code provisions continued. (a) Except as otherwise provided in subsection (c) of this section, local laws, ordinances, orders, rules, regulations, administrative code provisions and sanitary and health code provisions existing on the effective date of this section, shall, to the extent that they do not conflict with the provisions of this chapter, be given the following effect:

1. Orders of the department of transportation prohibiting or restricting stopping, standing or parking of vehicles and local laws, ordinances, orders, rules and regulations adopted by local authorities prohibiting or restricting stopping, standing or parking of vehicles shall henceforth be construed to prohibit or restrict stopping, standing or parking as defined in this chapter.

2. All other orders of the department of transportation affecting traffic and all other local laws, ordinances, orders, rules, regulations, administrative code provisions and sanitary and health code provisions affecting traffic shall henceforth be construed as if they had been adopted pursuant to this chapter.

(b) Except as otherwise provided in subsection (c) of this section, the local laws, ordinances, orders, rules, regulations, administrative code provisions and sanitary and health code provisions referred to in this section shall be deemed severable so that they shall be null and void only to the extent and only at the locations that they conflict with provisions of this chapter.

(c) Any local law, ordinance, order, rule, regulation, administrative code provision or sanitary or health code provision which was in existence on the effective date of this section, and which conflicts with the provisions of this chapter, shall nevertheless continue in effect and be construed as if adopted pursuant to this chapter, in any case where the same would validly supersede the provisions of this chapter if it were adopted after the effective date of this section, pursuant to any provision of sections sixteen hundred thirty, sixteen hundred thirty-one or sixteen hundred forty-two.

§ 3003. Reference to existing laws. The reference by any law, general or special or by any local law, ordinance, order, rule, regulation, administrative code provision or sanitary or health code provision to any section of this chapter or of the highway law, penal law or insurance law as in force immediately prior to the time this act shall take effect, shall be deemed to be construed as a reference to the corresponding provision or provisions of such law, as renumbered, modified or amended by this chapter, irrespective of whether such provision or provisions is or are contained in one or more than one title, article, section, subdivision or other part thereof.

§ 3004. Constitutionality. If any part or parts of this chapter shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this chapter. The legislature hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared unconstitutional.

ARTICLE 50

SAVING CLAUSES; LAWS REPEALED;

TIME TO TAKE EFFECT

Section 3010. Commissioner and bureau of motor vehicles continued.
3011. Reference to highway law.
3012. Existing licenses and registrations not affected.
3013. Saving clauses.
3014. Laws repealed.
3015. Time to take effect.

§ 3010. Commissioner and bureau of motor vehicles continued. The repeal by this chapter of the vehicle and traffic law as heretofore in force and effect and the enactment of the provisions of this chapter shall not be deemed or construed as operating to create a new office of commissioner of motor vehicles or a new bureau of motor vehicles, but

shall be deemed and held to constitute a continuance of such office and bureau. The present commissioner of motor vehicles shall continue in office until his successor shall have been duly appointed and has qualified and the organization of the present bureau of motor vehicles shall continue as the bureau of motor vehicles in the department of taxation and finance until changed pursuant to law.

§ 3011. Reference to highway law. The reference by any law, general or special, to any section of articles eleven or eleven-a of the highway law shall be deemed a reference to the corresponding section of the vehicle and traffic law as modified or changed by this chapter.

§ 3012. Existing licenses and registrations not affected. Subject to the provisions of the vehicle and traffic law, hereby enacted, relative to revocation or suspension of operators' or chauffeurs' licenses or registration of motor vehicles and motorcycles, this chapter shall not affect nor impair any such license or registration heretofore granted or issued.

§ 3013. Saving clauses. 1. Nothing contained in this chapter shall affect or impair any act done or right accruing, accrued or acquired, or any penalty, forfeiture or punishment incurred prior to the time when this chapter shall take effect, under or by virtue of the provision or provisions of the vehicle and traffic law, as in force immediately prior to the time this chapter shall take effect, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this chapter shall not have taken effect.

2. An act of the legislature of the year nineteen hundred fifty-nine or nineteen hundred sixty which, in form, adds or purports to add a new article, section, subdivision or other provision of law to the vehicle and traffic law, as in force immediately prior to the time this chapter shall take effect, shall be legally effective notwithstanding the repeal of such law by this chapter and shall be deemed and construed as having

been added to this chapter and shall be given full effect according to its context as if the same had been added expressly and in terms to this chapter and shall be deemed and construed to have been inserted in this chapter in the appropriate respective position in regard to and as modifying the effect of the corresponding provision or provisions of this chapter.

3. Any act of the legislature of the year nineteen hundred fifty-nine or nineteen hundred sixty which, in form, amends or repeals or purports to amend or repeal any provision or provisions of the former vehicle and traffic law shall be legally effective notwithstanding the repeal of such former vehicle and traffic law by this chapter and shall be construed as an amendment or repeal as the case may be, of the corresponding provision or provisions of this chapter irrespective of whether such provision or provisions are contained in this chapter in one or more than one article, section, subdivision or other part thereof and such corresponding provision or provisions shall be deemed and construed to be amended, modified, changed or repealed as though the same had been expressly and in terms so amended or repealed.

4. Reference in any act of the legislature of the year nineteen hundred fifty-nine or nineteen hundred sixty to an existing article, section, subdivision or other provision of the vehicle and traffic law, as in force immediately prior to the time this chapter shall take effect, shall be deemed and construed to refer to the corresponding article, section, subdivision or other provision of such law, as renumbered, modified or amended by this chapter.

5. The provisions of this chapter in so far as they are substantially the same as the existing provisions of the vehicle and traffic law shall be construed as a continuation of the provisions of the former vehicle and traffic law and not as new enactments.

6. This chapter shall not affect pending actions or proceedings, civil or criminal, but the same may be prosecuted or defended in the same manner and with the same effect as though this chapter had not been passed.

§ 3014. Laws repealed. Chapter fifty-four of the laws of nineteen hundred twenty-nine, entitled "An act relating to motor vehicles, motorcycles, and highway traffic, constituting chapter seventy-one of the consolidated laws," and all acts amendatory thereof and supplemental thereto, constituting the vehicle and traffic law as heretofore in force, are hereby repealed, except as otherwise provided herein.

§ 3015. Time to take effect. This chapter shall take effect October first, nineteen hundred sixty.