

STATE OF NEW YORK

2105

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

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

AN ACT to amend the vehicle and traffic law, in relation to truck
weight
photo-monitoring systems in cities with a population of one million
or
more

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

1 Section 1. The vehicle and traffic law is amended by adding a
new
2 section 1642-b to read as follows:
3 § 1642-b. Owner liability for failure of operator to comply
with
4 no-thru truck indications. (a) Notwithstanding any other provision
of
5 law, each city with a population of one million or more is
hereby
6 authorized and empowered to adopt and amend a local law or
ordinance
7 establishing a demonstration program imposing monetary liability on
the
8 owner of a vehicle for failure of an operator thereof to comply
with
9 no-thru truck indications in such city in accordance with the
provisions
10 of this section. Such demonstration program shall empower a city
to
11 install and operate truck weight photo-monitoring devices at no
more
12 than fifty intersections within such city at any one time.

13 (b) In any city which has adopted a local law or ordinance pursuant
to
14 subdivision (a) of this section, the owner of a vehicle shall be
liable
15 for a penalty imposed pursuant to this section if such vehicle was
used
16 or operated with the permission of the owner, express or implied,
in
17 violation of driving through a prohibited no-truck zone
designated
18 pursuant to subdivision (f) of section eighteen hundred of this
chapter,
19 and such violation is evidenced by information obtained from a
truck
20 weight violation-monitoring system; provided however that no owner of
a
21 vehicle shall be liable for a penalty imposed pursuant to this
section
22 where the operator of such vehicle has been convicted of the
underlying
23 violation of subdivision (f) of section eighteen hundred of this
chap-
24 ter.

EXPLANATION--Matter in italics (underscored) is new; matter in
brackets

[-] is old law to be omitted.

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1 (c) For purposes of this section, "owner" shall have the
meaning
2 provided in article two-B of this chapter. For purposes of this
section,
3 "truck weight violation-monitoring system" shall mean a vehicle
sensor
4 installed to work in conjunction with a vehicle scale which
automat-
5 ically produces two or more photographs, two or more
microphotographs, a
6 videotape or other recorded images of each vehicle at the time it
is
7 used or operated in violation of subdivision (f) of section
eighteen
8 hundred of this chapter.
9 (d) A certificate, sworn to or affirmed by a technician employed
by
10 the city in which the charged violation occurred, or a facsimile
there-
11 of, based upon inspection of photographs, microphotographs, videotape
or
12 other recorded images produced by a truck weight violation-
monitoring
13 system, shall be prima facie evidence of the facts contained
therein.

14 Any photographs, microphotographs, videotape or other recorded
images
15 evidencing such a violation shall be available for inspection in
any
16 proceeding to adjudicate the liability for such violation pursuant
to a
17 local law or ordinance adopted pursuant to this section.
18 (e) An owner liable for a violation of subdivision (f) of
section
19 eighteen hundred of this chapter pursuant to a local law or
ordinance
20 adopted pursuant to this section shall be liable for monetary
penalties
21 in accordance with a schedule of fines and penalties to be set forth
in
22 such local law or ordinance, except that in a city which, by local
law,
23 has authorized the adjudication of such owner liability by a
parking
24 violations bureau, such schedule shall be promulgated by such
bureau.
25 The liability of the owner pursuant to this section shall not
exceed
26 fifty dollars for each violation; provided, however, that such local
law
27 or ordinance may provide for an additional penalty not in excess
of
28 twenty-five dollars for each violation for the failure to respond
to a
29 notice of liability within the prescribed time period.
30 (f) An imposition of liability under a local law or ordinance
adopted
31 pursuant to this section shall not be deemed a conviction as an
operator
32 and shall not be made part of the operating record of the person
upon
33 whom such liability is imposed nor shall it be used for
insurance
34 purposes in the provision of motor vehicle insurance coverage.
35 (g) 1. A notice of liability shall be sent by first class mail to
each
36 person alleged to be liable as an owner for a violation of
subdivision
37 (f) of section eighteen hundred of this chapter pursuant to
this
38 section. Personal delivery on the owner shall not be required. A
manual
39 or automatic record of mailing prepared in the ordinary course of
busi-
40 ness shall be prima facie evidence of the facts contained therein.
41 2. A notice of liability shall contain the name and address of
the
42 person alleged to be liable as an owner for a violation of
subdivision
43 (f) of section eighteen hundred of this chapter pursuant to
this

44 section, the registration number of the vehicle involved in
such
45 violation, the location where such violation took place, the date
and
46 time of such violation and the identification number of the camera
which
47 recorded the violation or other document locator number.

48 3. The notice of liability shall contain information advising
the
49 person charged of the manner and the time in which he or she may
contest
50 the liability alleged in the notice. Such notice of liability shall
also
51 contain a warning to advise the persons charged that failure to
contest
52 in the manner and time provided shall be deemed an admission of
liabil-
53 ity and that a default judgment may be entered thereon.

54 4. The notice of liability shall be prepared and mailed by the
city
55 having jurisdiction over the intersection where the violation
occurred,

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1 or by any other entity authorized by the city to prepare and mail
such
2 notification of violation.

3 (h) Adjudication of the liability imposed upon owners by this
section
4 shall be by a traffic violations bureau established pursuant to
section
5 three hundred seventy of the general municipal law or, if there be
none,
6 by the court having jurisdiction over traffic infractions, except
that
7 any city which has established an administrative tribunal to hear
and
8 determine complaints of traffic infractions constituting parking,
stand-
9 ing or stopping violations may, by local law, authorize such
adjudi-
10 cation by such tribunal.

11 (i) If an owner receives a notice of liability pursuant to
this
12 section for any time period during which the vehicle was reported to
the
13 police department as having been stolen, it shall be a valid defense
to
14 an allegation of liability for a violation of subdivision (f) of
section
15 eighteen hundred of this chapter pursuant to this section that the
vehi-
16 cle had been reported to the police as stolen prior to the time
the
17 violation occurred and had not been recovered by such time; or that
the

18 vehicle was making a legitimate delivery within the area. For
19 purposes
20 of asserting the defenses provided by this subdivision it shall
21 be
22 sufficient that a certified copy of the police report on the
23 stolen
24 vehicle or a copy of an invoice or some other proof of delivery be
25 sent
26 by first class mail to the traffic violations bureau, court
27 having
28 jurisdiction or parking violations bureau.

29 (j) 1. In a city where the adjudication of liability imposed
30 upon
31 owners pursuant to this section is by a traffic violations bureau or
32 a
33 court having jurisdiction, an owner who is a lessor of a vehicle
34 to
35 which a notice of liability was issued pursuant to subdivision (g)
36 of
37 this section shall not be liable for the violation of subdivision (f)
38 of
39 section eighteen hundred of this chapter, provided that he or she
40 sends
41 to the traffic violations bureau or court having jurisdiction a copy
42 of
43 the rental, lease or other such contract document covering such
44 vehicle
45 on the date of the violation, with the name and address of the
46 lessee
47 clearly legible, within thirty-seven days after receiving notice
48 from
49 the bureau or court of the date and time of such violation,
50 together
51 with the other information contained in the original notice of
52 liabil-
53 ity. Failure to send such information within such thirty-seven day
54 time
55 period shall render the owner liable for the penalty prescribed by
56 this
57 section. Where the lessor complies with the provisions of this
58 para-
59 graph, the lessee of such vehicle on the date of such violation shall
60 be
61 deemed to be the owner of such vehicle for purposes of this
62 section,
63 of
64 shall be subject to liability for the violation of subdivision (f)
65 of
66 section eighteen hundred of this chapter pursuant to this section
67 and
68 shall be sent a notice of liability pursuant to subdivision (g) of
69 this
70 section.

71 2. (i) In a city which, by local law, has authorized the
72 adjudication
73 of liability imposed upon owners by this section by a parking
74 violations

47 bureau, an owner who is a lessor of a vehicle to which a notice
of
48 liability was issued pursuant to subdivision (g) of this section
shall
49 not be liable for the violation of subdivision (f) of section
eighteen
50 hundred of this chapter, provided that:
51 (A) prior to the violation, the lessor has filed with the bureau
in
52 accordance with the provisions of section two hundred thirty-nine
of
53 this chapter; and
54 (B) within thirty-seven days after receiving notice from the bureau
of
55 the date and time of a liability, together with the other
information
56 contained in the original notice of liability, the lessor submits to
the

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1 bureau the correct name and address of the lessee of the vehicle
identi-
2 fied in the notice of liability at the time of such violation,
together
3 with such other additional information contained in the rental, lease
or
4 other contract document, as may be reasonably required by the
bureau
5 pursuant to regulations that may be promulgated for such purpose.
6 (ii) Failure to comply with clause (B) of subparagraph (i) of
this
7 paragraph shall render the owner liable for the penalty prescribed
in
8 this section.
9 (iii) Where the lessor complies with the provisions of this
paragraph,
10 the lessee of such vehicle on the date of such violation shall be
deemed
11 to be the owner of such vehicle for purposes of this section, shall
be
12 subject to liability for such violation pursuant to this section
and
13 shall be sent a notice of liability pursuant to subdivision (g) of
this
14 section.
15 (k) If the owner liable for a violation of subdivision (f) of
section
16 eighteen hundred of this chapter pursuant to this section was not
the
17 operator of the vehicle at the time of the violation, the owner
may
18 maintain an action for indemnification against the operator.
19 (l) Nothing in this section shall be construed to limit the
liability
20 of an operator of a vehicle for any violation of subdivision (f)
of
21 section eighteen hundred of this chapter.

22 (m) In any city which adopts a demonstration program pursuant
to
23 subdivision (a) of this section, such city shall submit a report on
the
24 results of the use of a truck weight photo-monitoring system to
the
25 governor, the temporary president of the senate and the speaker of
the
26 assembly by March first, two thousand twenty-two. Such report
shall
27 include, but not be limited to:
28 1. a description of the locations where truck weight photo-
monitoring
29 systems were used;
30 2. the number of violations recorded at each intersection and in
the
31 aggregate on a daily, weekly and monthly basis;
32 3. the total number of notices of liability issued;
33 4. the number of fines and total amount of fines paid after
first
34 notice of liability;
35 5. the number of violations adjudicated and results of such
adjudi-
36 cations including breakdowns of dispositions made;
37 6. the total amount of revenue realized by such city; and
38 7. quality of the adjudication process and its results.
39 § 2. This act shall take effect on the one hundred eightieth day
after
40 it shall have become a law. Effective immediately the addition,
amend-
41 ment, and/or repeal of any rule or regulation necessary for the
timely
42 implementation of this act on its effective date is hereby authorized
to
43 be made on or before such effective date.