

HOME RULE MESSAGE REQUESTING THE STATE OF NEW YORK TO AMEND THE VEHICLE AND TRAFFIC LAW AND THE PUBLIC OFFICERS LAW, IN RELATION TO ADJUDICATIONS AND OWNER LIABILITY FOR A VIOLATION OF TRAFFIC CONTROL SIGNAL INDICATIONS AND PROVIDING FOR THE REPEAL OF SUCH PROVISIONS UPON EXPIRATION THEREOF (SENATE BILL S.3748 AND ASSEMBLY BILL A.7333)

WHEREAS, the Insurance Institute for Highway Safety estimates that vehicle drivers running red traffic lights are responsible for an estimated 260,000 crashes each year in the United States, 750 of which are fatal, and that fatal crashes at intersections increased by almost 20 per cent during the five year period from 1992 through 1996; and

WHEREAS, Suffolk County Local Law 18-2001, "Local Law to Prohibit Red Light Running in Suffolk County", similar to the successful New York City program now in place, was adopted by the Suffolk County Legislature on November 20, 2001, subject to the enactment of enabling State legislation for authority to install and implement traffic-control signal photo-violation monitoring devices to catch red-light runners; and

WHEREAS, the Suffolk County Legislature passed Home Rule Messages in 2002, 2004, 2005, 2006, 2007, and 2008 urging the State Legislature to enact legislation authorizing Suffolk County to install red light cameras; and

WHEREAS, there is currently a proposal before the New York State Assembly to amend the NEW YORK VEHICLE AND TRAFFIC LAW (VTL) and PUBLIC OFFICERS LAW to allow Suffolk County to install and operate traffic-control signal photo violation-monitoring devices (red-light cameras) at intersections within Suffolk County; now, therefore, be it

1st RESOLVED, that this Legislature hereby requests the New York State Legislature to enact Senate Bill S.3748 and Assembly Bill A.7333 for the purpose of:

- 1) amending the VTL to include a new Section 1111-b to allow Suffolk County to adopt a local law establishing and implementing a demonstration red-light camera program which would impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications by installing and operating traffic control signal photo violation-monitoring devices at no more than fifty (50) intersections within the County at any one time
- 2) authorizing monetary fines not to exceed fifty dollars (\$50.00) per violation for failure to obey a traffic control device to be adjudicated in the same manner that parking tickets are adjudicated, plus an additional penalty not to exceed twenty five dollars (\$25.00) for each violation for the failure to respond to a notice of liability within the prescribed time period
- 3) authorizing the use of 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; and

- 4) amending Section 87 of the Public Officers Law to allow officers to deny public access to images produced by the traffic control signal photo violation-monitoring devices; and be it further

2nd **RESOLVED**, that the Clerk of this Legislature is hereby directed to forward copies of this Resolution to Governor David A. Paterson; to the Majority Leader of the New York State Senate Malcolm Smith; to the Speaker of the New York State Assembly Sheldon Silver; to the Minority Leaders of the New York State Senate and the New York State Assembly; and to each member of the Long Island delegation to the New York State Legislature.

DATED: April 1, 2009



Wednesday, May 6, 2009

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S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N S E N A T E

March 30, 2009

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the public officers law, in relation to adjudications and owner liability for a violation of traffic-control signal indications and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph a of subdivision 5-a of section 401 of the vehi-
 2 cle and traffic law, as amended by chapter 496 of the laws of 1990,
 3 subparagraph (i) as designated and subparagraph (ii) as added by chapter
 4 373 of the laws of 1994, is amended to read as follows:
 5 a. (i) If at the time of application for a registration or renewal
 6 thereof there is a certification from a court, parking violations
 7 bureau, traffic and parking violations agency or administrative tribunal
 8 of appropriate jurisdiction or administrative tribunal of appropriate
 9 jurisdiction that the registrant or his OR HER representative failed to
 10 appear on the return date or any subsequent adjourned date or failed to
 11 comply with the rules and regulations of an administrative tribunal
 12 following entry of a final decision in response to a total of three or
 13 more summonses or other process in the aggregate, issued within an eigh-
 14 teen month period, charging either that (i) such motor vehicle was
 15 parked, stopped or standing, or that such motor vehicle was operated for
 16 hire by the registrant or his OR HER agent without being licensed as a
 17 motor vehicle for hire by the appropriate local authority, in violation
 18 of any of the provisions of this chapter or of any law, ordinance, rule
 19 or regulation made by a local authority or (ii) the registrant was
 20 liable in accordance with section eleven hundred eleven-a OR ELEVEN
 21 HUNDRED ELEVEN-B of this chapter for a violation of subdivision (d) of
 22 section eleven hundred eleven of this chapter, the commissioner or his
 23 OR HER agent shall deny the registration or renewal application until

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

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1 the applicant provides proof from the court, traffic and parking
2 violations agency or administrative tribunal wherein the charges are
3 pending that an appearance or answer has been made or in the case of an
4 administrative tribunal that he OR SHE has complied with the rules and
5 regulations of said tribunal following entry of a final decision. Where
6 an application is denied pursuant to this section, the commissioner may,
7 in his OR HER discretion, deny a registration or renewal application to
8 any other person for the same vehicle and may deny a registration or
9 renewal application for any other motor vehicle registered in the name
10 of the applicant where the commissioner has determined that such regis-
11 trant's intent has been to evade the purposes of this subdivision and
12 where the commissioner has reasonable grounds to believe that such
13 registration or renewal will have the effect of defeating the purposes
14 of this subdivision. Such denial shall only remain in effect as long as
15 the summonses remain unanswered, or in the case of an administrative
16 tribunal, the registrant fails to comply with the rules and regulations
17 following entry of a final decision.

18 (ii) For purposes of this paragraph, the term "motor vehicle operated
19 for hire" shall mean and include a taxicab, livery, coach, limousine or
20 tow truck.

21 S 2. Paragraph a of subdivision 5-a of section 401 of the vehicle and
22 traffic law, as separately amended by chapters 339 and 592 of the laws
23 of 1987, is amended to read as follows:

24 a. If at the time of application for a registration or renewal thereof
25 there is a certification from a court or administrative tribunal of
26 appropriate jurisdiction that the registrant or his OR HER represen-
27 tative failed to appear on the return date or any subsequent adjourned
28 date or failed to comply with the rules and regulations of an adminis-
29 trative tribunal following entry of a final decision in response to A
30 TOTAL OF three or more summonses or other process IN THE AGGREGATE,
31 issued within an eighteen month period, charging EITHER that (I) such
32 motor vehicle was parked, stopped or standing, or that such motor vehi-
33 cle was operated for hire by the registrant or his OR HER agent without
34 being licensed as a motor vehicle for hire by the appropriate local
35 authority, in violation of any of the provisions of this chapter or of
36 any law, ordinance, rule or regulation made by a local authority OR (II)
37 THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
38 ELEVEN-B OF THIS CHAPTER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
39 ELEVEN HUNDRED ELEVEN OF THIS CHAPTER, the commissioner or his OR HER
40 agent shall deny the registration or renewal application until the
41 applicant provides proof from the court or administrative tribunal wher-
42 ein the charges are pending that an appearance or answer has been made
43 or in the case of an administrative tribunal that he OR SHE has complied
44 with the rules and regulations of said tribunal following entry of a
45 final decision. Where an application is denied pursuant to this section,
46 the commissioner may, in his OR HER discretion, deny a registration or
47 renewal application to any other person for the same vehicle and may
48 deny a registration or renewal application for any other motor vehicle
49 registered in the name of the applicant where the commissioner has
50 determined that such registrant's intent has been to evade the purposes
51 of this subdivision and where the commissioner has reasonable grounds to
52 believe that such registration or renewal will have the effect of
53 defeating the purposes of this subdivision. Such denial shall only

54 remain in effect as long as the summonses remain unanswered, or in the
55 case of an administrative tribunal, the registrant fails to comply with
56 the rules and regulations following entry of a final decision.
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1 S 3. The vehicle and traffic law is amended by adding a new section
2 1111-b to read as follows:

3 S 1111-B. OWNER LIABILITY FOR FAILURE OF OPERATOR TO COMPLY WITH
4 TRAFFIC-CONTROL INDICATIONS. (A) 1. NOTWITHSTANDING ANY OTHER PROVISION
5 OF LAW, THE COUNTY OF SUFFOLK IS HEREBY AUTHORIZED AND EMPOWERED TO
6 ADOPT AND AMEND A LOCAL LAW OR ORDINANCE ESTABLISHING A DEMONSTRATION
7 PROGRAM IMPOSING MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAIL-
8 URE OF AN OPERATOR THEREOF TO COMPLY WITH TRAFFIC-CONTROL INDICATIONS IN
9 SUCH COUNTY IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. SUCH
10 DEMONSTRATION PROGRAM SHALL EMPOWER SUCH COUNTY TO INSTALL AND OPERATE
11 TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING DEVICES AT NO MORE
12 THAN FIFTY INTERSECTIONS WITHIN AND UNDER THE JURISDICTION OF SUCH COUN-
13 TY AT ANY ONE TIME.

14 2. SUCH DEMONSTRATION PROGRAM SHALL UTILIZE NECESSARY TECHNOLOGIES TO
15 ENSURE, TO THE EXTENT PRACTICABLE, THAT PHOTOGRAPHS PRODUCED BY SUCH
16 TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING SYSTEMS SHALL NOT
17 INCLUDE IMAGES THAT IDENTIFY THE DRIVER, THE PASSENGERS, OR THE CONTENTS
18 OF THE VEHICLE. PROVIDED, HOWEVER, THAT NO NOTICE OF LIABILITY ISSUED
19 PURSUANT TO THIS SECTION SHALL BE DISMISSED SOLELY BECAUSE A PHOTOGRAPH
20 OR PHOTOGRAPHS ALLOW FOR THE IDENTIFICATION OF THE CONTENTS OF A VEHI-
21 CLE, PROVIDED THAT SUCH COUNTY HAS MADE A REASONABLE EFFORT TO COMPLY
22 WITH THE PROVISIONS OF THIS PARAGRAPH.

23 (B) IN ANY SUCH COUNTY WHICH HAS ADOPTED A LOCAL LAW OR ORDINANCE
24 PURSUANT TO SUBDIVISION (A) OF THIS SECTION, THE OWNER OF A VEHICLE
25 SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION IF SUCH
26 VEHICLE WAS USED OR OPERATED WITH THE PERMISSION OF THE OWNER, EXPRESS
27 OR IMPLIED, IN VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED
28 ELEVEN OF THIS ARTICLE, AND SUCH VIOLATION IS EVIDENCED BY INFORMATION
29 OBTAINED FROM A TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING
30 SYSTEM; PROVIDED HOWEVER THAT NO OWNER OF A VEHICLE SHALL BE LIABLE FOR
31 A PENALTY IMPOSED PURSUANT TO THIS SECTION WHERE THE OPERATOR OF SUCH
32 VEHICLE HAS BEEN CONVICTED OF THE UNDERLYING VIOLATION OF SUBDIVISION
33 (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

34 (C) FOR PURPOSES OF THIS SECTION, "OWNER" SHALL HAVE THE MEANING
35 PROVIDED IN ARTICLE TWO-B OF THIS CHAPTER. FOR PURPOSES OF THIS SECTION,
36 "TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING SYSTEM" SHALL MEAN A
37 VEHICLE SENSOR INSTALLED TO WORK IN CONJUNCTION WITH A TRAFFIC-CONTROL
38 SIGNAL WHICH AUTOMATICALLY PRODUCES TWO OR MORE PHOTOGRAPHS, TWO OR MORE
39 MICROPHOTOGRAPHS, A VIDEOTAPE OR OTHER RECORDED IMAGES OF EACH VEHICLE
40 AT THE TIME IT IS USED OR OPERATED IN VIOLATION OF SUBDIVISION (D) OF
41 SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

42 (D) A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY
43 SUFFOLK COUNTY IN WHICH THE CHARGED VIOLATION OCCURRED, OR A FACSIMILE
44 THEREOF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDE-
45 OTAPE OR OTHER RECORDED IMAGES PRODUCED BY A TRAFFIC-CONTROL SIGNAL
46 PHOTO VIOLATION-MONITORING SYSTEM, SHALL BE PRIMA FACIE EVIDENCE OF THE
47 FACTS CONTAINED THEREIN. ANY PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR
48 OTHER RECORDED IMAGES EVIDENCING SUCH A VIOLATION SHALL BE AVAILABLE FOR
49 INSPECTION IN ANY PROCEEDING TO ADJUDICATE THE LIABILITY FOR SUCH
50 VIOLATION PURSUANT TO A LOCAL LAW OR ORDINANCE ADOPTED PURSUANT TO THIS
51 SECTION.

52 (E) AN OWNER LIABLE FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
53 ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO A LOCAL LAW OR ORDI-
54 NANCE ADOPTED PURSUANT TO THIS SECTION SHALL BE LIABLE FOR MONETARY

55 PENALTIES IN ACCORDANCE WITH A SCHEDULE OF FINES AND PENALTIES TO BE SET
56 FORTH IN SUCH LOCAL LAW OR ORDINANCE. THE LIABILITY OF THE OWNER PURSU-
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1 ANT TO THIS SECTION SHALL NOT EXCEED FIFTY DOLLARS FOR EACH VIOLATION;
2 PROVIDED, HOWEVER, THAT SUCH LOCAL LAW OR ORDINANCE MAY PROVIDE FOR AN
3 ADDITIONAL PENALTY NOT IN EXCESS OF TWENTY-FIVE DOLLARS FOR EACH
4 VIOLATION FOR THE FAILURE TO RESPOND TO A NOTICE OF LIABILITY WITHIN THE
5 PRESCRIBED TIME PERIOD.

6 (F) AN IMPOSITION OF LIABILITY UNDER A LOCAL LAW OR ORDINANCE ADOPTED
7 PURSUANT TO THIS SECTION SHALL NOT BE DEEMED A CONVICTION AS AN OPERATOR
8 AND SHALL NOT BE MADE PART OF THE OPERATING RECORD OF THE PERSON UPON
9 WHOM SUCH LIABILITY IS IMPOSED NOR SHALL IT BE USED FOR INSURANCE
10 PURPOSES IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

11 (G) 1. A NOTICE OF LIABILITY SHALL BE SENT BY FIRST CLASS MAIL TO EACH
12 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF SUBDIVISION
13 (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO THIS
14 SECTION. PERSONAL DELIVERY ON THE OWNER SHALL NOT BE REQUIRED. A MANUAL
15 OR AUTOMATIC RECORD OF MAILING PREPARED IN THE ORDINARY COURSE OF BUSI-
16 NESS SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

17 2. A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE
18 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF SUBDIVISION
19 (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO THIS
20 SECTION, THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH
21 VIOLATION, THE LOCATION WHERE SUCH VIOLATION TOOK PLACE, THE DATE AND
22 TIME OF SUCH VIOLATION AND THE IDENTIFICATION NUMBER OF THE CAMERA WHICH
23 RECORDED THE VIOLATION OR OTHER DOCUMENT LOCATOR NUMBER.

24 3. THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE
25 PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST
26 THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO
27 CONTAIN A WARNING TO ADVISE THE PERSONS CHARGED THAT FAILURE TO CONTEST
28 IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABIL-
29 ITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.

30 4. THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY SUFFOLK
31 COUNTY OR BY ANY OTHER ENTITY AUTHORIZED BY SUCH COUNTY TO PREPARE AND
32 MAIL SUCH NOTIFICATION OF VIOLATION.

33 (H) ADJUDICATION OF THE LIABILITY IMPOSED UPON OWNERS BY THIS SECTION
34 SHALL BE BY THE COURT HAVING JURISDICTION OVER TRAFFIC INFRACTIONS.

35 (I) IF AN OWNER RECEIVES A NOTICE OF LIABILITY PURSUANT TO THIS
36 SECTION FOR ANY TIME PERIOD DURING WHICH THE VEHICLE WAS REPORTED TO THE
37 POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT SHALL BE A VALID DEFENSE TO
38 AN ALLEGATION OF LIABILITY FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
39 ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO THIS SECTION THAT THE
40 VEHICLE HAD BEEN REPORTED TO THE POLICE AS STOLEN PRIOR TO THE TIME THE
41 VIOLATION OCCURRED AND HAD NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES
42 OF ASSERTING THE DEFENSE PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFI-
43 CIENT THAT A CERTIFIED COPY OF THE POLICE REPORT ON THE STOLEN VEHICLE
44 BE SENT BY FIRST CLASS MAIL TO THE COURT HAVING JURISDICTION.

45 (J) AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF LIABIL-
46 ITY WAS ISSUED PURSUANT TO SUBDIVISION (G) OF THIS SECTION SHALL NOT BE
47 LIABLE FOR THE VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED
48 ELEVEN OF THIS ARTICLE, PROVIDED THAT HE OR SHE SENDS TO THE COURT
49 HAVING JURISDICTION A COPY OF THE RENTAL, LEASE OR OTHER SUCH CONTRACT
50 DOCUMENT COVERING SUCH VEHICLE ON THE DATE OF THE VIOLATION, WITH THE
51 NAME AND ADDRESS OF THE LESSEE CLEARLY LEGIBLE, WITHIN THIRTY-SEVEN DAYS
52 AFTER RECEIVING NOTICE FROM THE COURT OF THE DATE AND TIME OF SUCH
53 VIOLATION, TOGETHER WITH THE OTHER INFORMATION CONTAINED IN THE ORIGINAL
54 NOTICE OF LIABILITY. FAILURE TO SEND SUCH INFORMATION WITHIN SUCH THIR-
55 TY-SEVEN DAY TIME PERIOD SHALL RENDER THE OWNER LIABLE FOR THE PENALTY

56 PRESCRIBED BY THIS SECTION. WHERE THE LESSOR COMPLIES WITH THE
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1 PROVISIONS OF THIS PARAGRAPH, THE LESSEE OF SUCH VEHICLE ON THE DATE OF
2 SUCH VIOLATION SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR
3 PURPOSES OF THIS SECTION, SHALL BE SUBJECT TO LIABILITY FOR THE
4 VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS
5 ARTICLE PURSUANT TO THIS SECTION AND SHALL BE SENT A NOTICE OF LIABILITY
6 PURSUANT TO SUBDIVISION (G) OF THIS SECTION.

7 (K) 1. IF THE OWNER LIABLE FOR A VIOLATION OF SUBDIVISION (D) OF
8 SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO THIS SECTION
9 WAS NOT THE OPERATOR OF THE VEHICLE AT THE TIME OF THE VIOLATION, THE
10 OWNER MAY MAINTAIN AN ACTION FOR INDEMNIFICATION AGAINST THE OPERATOR.

11 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO OWNER OF A
12 VEHICLE SHALL BE SUBJECT TO A MONETARY FINE IMPOSED PURSUANT TO THIS
13 SECTION IF THE OPERATOR OF SUCH VEHICLE WAS OPERATING SUCH VEHICLE WITH-
14 OUT THE CONSENT OF THE OWNER AT THE TIME SUCH OPERATOR FAILED TO OBEY A
15 TRAFFIC-CONTROL INDICATION. FOR PURPOSES OF THIS SUBDIVISION THERE SHALL
16 BE A PRESUMPTION THAT THE OPERATOR OF SUCH VEHICLE WAS OPERATING SUCH
17 VEHICLE WITH THE CONSENT OF THE OWNER AT THE TIME SUCH OPERATOR FAILED
18 TO OBEY A TRAFFIC-CONTROL INDICATION.

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 (D) OF
21 SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

22 (M) WHEN A COUNTY HAS ESTABLISHED A DEMONSTRATION PROGRAM PURSUANT TO
23 THIS SECTION, ALL FINES AND PENALTIES COLLECTED UNDER SUCH PROGRAM SHALL
24 BE MADE TO THE COUNTY TREASURER WITHIN THE FIRST TEN DAYS OF THE MONTH
25 FOLLOWING COLLECTION.

26 (N) IN ANY SUCH COUNTY WHICH ADOPTS A DEMONSTRATION PROGRAM PURSUANT
27 TO SUBDIVISION (A) OF THIS SECTION, SUCH COUNTY SHALL SUBMIT AN ANNUAL
28 REPORT ON THE RESULTS OF THE USE OF A TRAFFIC-CONTROL SIGNAL PHOTO
29 VIOLATION-MONITORING SYSTEM TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF
30 THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON OR BEFORE JUNE FIRST, TWO
31 THOUSAND TEN AND ON THE SAME DATE IN EACH SUCCEEDING YEAR IN WHICH THE
32 DEMONSTRATION PROGRAM IS OPERABLE. SUCH REPORT SHALL INCLUDE, BUT NOT BE
33 LIMITED TO:

34 1. A DESCRIPTION OF THE LOCATIONS WHERE TRAFFIC-CONTROL SIGNAL PHOTO
35 VIOLATION-MONITORING SYSTEMS WERE USED;

36 2. THE AGGREGATE NUMBER, TYPE AND SEVERITY OF ACCIDENTS REPORTED AT
37 INTERSECTIONS WHERE A TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING
38 SYSTEM IS USED FOR THE YEAR PRECEDING THE INSTALLATION OF SUCH SYSTEM,
39 TO THE EXTENT THE INFORMATION IS MAINTAINED BY THE DEPARTMENT OF MOTOR
40 VEHICLES OF THIS STATE;

41 3. THE AGGREGATE NUMBER, TYPE AND SEVERITY OF ACCIDENTS REPORTED AT
42 INTERSECTIONS WHERE A TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING
43 SYSTEM IS USED, TO THE EXTENT THE INFORMATION IS MAINTAINED BY THE
44 DEPARTMENT OF MOTOR VEHICLES OF THIS STATE;

45 4. THE NUMBER OF VIOLATIONS RECORDED AT EACH INTERSECTION WHERE A
46 TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING SYSTEM IS USED AND IN
47 THE AGGREGATE ON A DAILY, WEEKLY AND MONTHLY BASIS;

48 5. THE TOTAL NUMBER OF NOTICES OF LIABILITY ISSUED FOR VIOLATIONS
49 RECORDED BY SUCH SYSTEMS;

50 6. THE NUMBER OF FINES AND TOTAL AMOUNT OF FINES PAID AFTER FIRST
51 NOTICE OF LIABILITY;

52 7. THE NUMBER OF VIOLATIONS ADJUDICATED AND RESULTS OF SUCH ADJUDI-
53 CATIONS INCLUDING BREAKDOWNS OF DISPOSITION MADE FOR VIOLATIONS RECORDED
54 BY SUCH SYSTEMS;

55 8. THE TOTAL AMOUNT OF REVENUE REALIZED BY SUCH COUNTY;
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1 9. EXPENSES INCURRED BY SUCH COUNTY IN CONNECTION WITH THE PROGRAM;
2 AND

3 10. QUALITY OF THE ADJUDICATION PROCESS AND ITS RESULTS.

4 (O) IT SHALL BE A DEFENSE TO ANY PROSECUTION FOR A VIOLATION OF SUBDI-
5 VISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO
6 A LOCAL LAW OR ORDINANCE ADOPTED PURSUANT TO THIS SECTION THAT SUCH
7 TRAFFIC-CONTROL INDICATIONS WERE MALFUNCTIONING AT THE TIME OF THE
8 ALLEGED VIOLATION.

9 S 4. The opening paragraph and paragraph (c) of subdivision 1 of
10 section 1809 of the vehicle and traffic law, as amended by section 2 of
11 part DD of chapter 56 of the laws of 2008, are amended to read as
12 follows:

13 Whenever proceedings in an administrative tribunal or a court of this
14 state result in a conviction for an offense under this chapter or a
15 traffic infraction under this chapter, or a local law, ordinance, rule
16 or regulation adopted pursuant to this chapter, other than a traffic
17 infraction involving standing, stopping, or parking or violations by
18 pedestrians or bicyclists, or other than an adjudication of liability of
19 an owner for a violation of subdivision (d) of section eleven hundred
20 eleven of this chapter in accordance with section eleven hundred
21 eleven-a of this chapter, OR OTHER THAN AN ADJUDICATION OF LIABILITY OF
22 AN OWNER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED
23 ELEVEN OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
24 ELEVEN-B OF THIS CHAPTER, there shall be levied a crime victim assist-
25 ance fee and a mandatory surcharge, in addition to any sentence required
26 or permitted by law, in accordance with the following schedule:

27 (c) Whenever proceedings in an administrative tribunal or a court of
28 this state result in a conviction for an offense under this chapter
29 other than a crime pursuant to section eleven hundred ninety-two of this
30 chapter, or a traffic infraction under this chapter, or a local law,
31 ordinance, rule or regulation adopted pursuant to this chapter, other
32 than a traffic infraction involving standing, stopping, or parking or
33 violations by pedestrians or bicyclists, or other than an adjudication
34 of liability of an owner for a violation of subdivision (d) of section
35 eleven hundred eleven of this chapter in accordance with section eleven
36 hundred eleven-a of this chapter, OR OTHER THAN AN ADJUDICATION OF
37 LIABILITY OF AN OWNER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
38 ELEVEN HUNDRED ELEVEN OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN
39 HUNDRED ELEVEN-B OF THIS CHAPTER, or other than an infraction pursuant
40 to article nine of this chapter or other than an adjudication of liabil-
41 ity of an owner for a violation of toll collection regulations pursuant
42 to section two thousand nine hundred eighty-five of the public authori-
43 ties law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven
44 hundred seventy-four of the laws of nineteen hundred fifty, there shall
45 be levied a crime victim assistance fee in the amount of five dollars
46 and a mandatory surcharge, in addition to any sentence required or
47 permitted by law, in the amount of fifty-five dollars.

48 S 5. The opening paragraph of subdivision 1 of section 1809 of the
49 vehicle and traffic law, as amended by chapter 190 of the laws of 1990,
50 is amended to read as follows:

51 Whenever proceedings in an administrative tribunal or a court of this
52 state result in a conviction for a crime under this chapter or a traffic
53 infraction under this chapter, or a local law, ordinance, rule or regu-
54 lation adopted pursuant to this chapter, other than a traffic infraction
55 involving standing, stopping, parking or motor vehicle equipment or
56 violations by pedestrians or bicyclists, or other than an adjudication
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1 of liability of an owner for a violation of subdivision (d) of section
2 eleven hundred eleven of this chapter in accordance with section eleven
3 hundred eleven-a of this chapter, OR OTHER THAN AN ADJUDICATION OF
4 LIABILITY OF AN OWNER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
5 ELEVEN HUNDRED ELEVEN OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN
6 HUNDRED ELEVEN-B OF THIS CHAPTER, there shall be levied a mandatory
7 surcharge, in addition to any sentence required or permitted by law, in
8 the amount of twenty-five dollars.

9 S 6. Paragraph a of subdivision 1 of section 1809-e of the vehicle and
10 traffic law, as amended by section 1 of part EE of chapter 56 of the
11 laws of 2008, is amended to read as follows:

12 a. Notwithstanding any other provision of law, whenever proceedings
13 in a court or an administrative tribunal of this state result in a
14 conviction for an offense under this chapter, except a conviction pursu-
15 ant to section eleven hundred ninety-two of this chapter, or for a traf-
16 fic infraction under this chapter, or a local law, ordinance, rule or
17 regulation adopted pursuant to this chapter, except a traffic infraction
18 involving standing, stopping, or parking or violations by pedestrians or
19 bicyclists, and except an adjudication of liability of an owner for a
20 violation of subdivision (d) of section eleven hundred eleven of this
21 chapter in accordance with section eleven hundred eleven-a of this chap-
22 ter, AND EXCEPT AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION
23 OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS CHAPTER IN
24 ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, and
25 except an adjudication of liability of an owner for a violation of toll
26 collection regulations pursuant to section two thousand nine hundred
27 eighty-five of the public authorities law or sections sixteen-a,
28 sixteen-b and sixteen-c of chapter seven hundred seventy-four of the
29 laws of nineteen hundred fifty, there shall be levied in addition to any
30 sentence, penalty or other surcharge required or permitted by law, an
31 additional surcharge of twenty dollars.

32 S 7. Subdivision 2 of section 87 of the public officers law is amended
33 by adding a new paragraph (k) to read as follows:

34 (K) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED
35 IMAGES PREPARED UNDER AUTHORITY OF SECTION ELEVEN HUNDRED ELEVEN-B OF
36 THE VEHICLE AND TRAFFIC LAW.

37 S 8. The purchase or lease of equipment for a demonstration program
38 established pursuant to section 1111-b of the vehicle and traffic law
39 shall be subject to the provisions of section 103 of the general municip-
40 al law.

41 S 9. This act shall take effect on the thirtieth day after it shall
42 have become a law and shall expire December 1, 2014 when upon such date
43 the provisions of this act shall be deemed repealed; provided that the
44 amendments to paragraph a of subdivision 5-a of section 401 of the vehi-
45 cle and traffic law made by section one of this act shall be subject to
46 the expiration and reversion of such paragraph pursuant to section 17 of
47 chapter 746 of the laws of 1988, as amended, when upon such date the
48 provisions of section two of this act shall take effect; provided that
49 the amendments to the opening paragraph and paragraph (c) of subdivision
50 1 of section 1809 of the vehicle and traffic law made by section four of
51 this act shall be subject to the expiration and reversion of such subdi-
52 vision pursuant to chapter 166 of the laws of 1991, as amended, when
53 upon such date the provisions of section five of this act shall take
54 effect; provided, however, that the amendments to the opening paragraph
55 of subdivision 1 of section 1809 of the vehicle and traffic law made by
56 section five of this act shall not affect the expiration of such subdi-
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1 vision and shall expire therewith; and provided, further, that any such

2 local laws as may be enacted pursuant to this act shall remain in full
3 force and effect only until December 1, 2014.

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Wednesday, May 6, 2009

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S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

March 30, 2009

Introduced by M. of A. EDDINGTON, FIELDS, SWEENEY -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the public officers law, in relation to adjudications and owner liability for a violation of traffic-control signal indications and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph a of subdivision 5-a of section 401 of the vehi-
2 cle and traffic law, as amended by chapter 496 of the laws of 1990,
3 subparagraph (i) as designated and subparagraph (ii) as added by chapter
4 373 of the laws of 1994, is amended to read as follows:
5 a. (i) If at the time of application for a registration or renewal
6 thereof there is a certification from a court, parking violations
7 bureau, traffic and parking violations agency or administrative tribunal
8 of appropriate jurisdiction or administrative tribunal of appropriate
9 jurisdiction that the registrant or his OR HER representative failed to
10 appear on the return date or any subsequent adjourned date or failed to
11 comply with the rules and regulations of an administrative tribunal
12 following entry of a final decision in response to a total of three or
13 more summonses or other process in the aggregate, issued within an eigh-
14 teen month period, charging either that (i) such motor vehicle was
15 parked, stopped or standing, or that such motor vehicle was operated for
16 hire by the registrant or his OR HER agent without being licensed as a
17 motor vehicle for hire by the appropriate local authority, in violation
18 of any of the provisions of this chapter or of any law, ordinance, rule
19 or regulation made by a local authority or (ii) the registrant was
20 liable in accordance with section eleven hundred eleven-a OR ELEVEN
21 HUNDRED ELEVEN-B of this chapter for a violation of subdivision (d) of
22 section eleven hundred eleven of this chapter, the commissioner or his
23 OR HER agent shall deny the registration or renewal application until

24 the applicant provides proof from the court, traffic and parking
25 violations agency or administrative tribunal wherein the charges are
26 pending that an appearance or answer has been made or in the case of an

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

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1 administrative tribunal that he OR SHE has complied with the rules and
2 regulations of said tribunal following entry of a final decision. Where
3 an application is denied pursuant to this section, the commissioner may,
4 in his OR HER discretion, deny a registration or renewal application to
5 any other person for the same vehicle and may deny a registration or
6 renewal application for any other motor vehicle registered in the name
7 of the applicant where the commissioner has determined that such regis-
8 trant's intent has been to evade the purposes of this subdivision and
9 where the commissioner has reasonable grounds to believe that such
10 registration or renewal will have the effect of defeating the purposes
11 of this subdivision. Such denial shall only remain in effect as long as
12 the summonses remain unanswered, or in the case of an administrative
13 tribunal, the registrant fails to comply with the rules and regulations
14 following entry of a final decision.

15 (ii) For purposes of this paragraph, the term "motor vehicle operated
16 for hire" shall mean and include a taxicab, livery, coach, limousine or
17 tow truck.

18 S 2. Paragraph a of subdivision 5-a of section 401 of the vehicle and
19 traffic law, as separately amended by chapters 339 and 592 of the laws
20 of 1987, is amended to read as follows:

21 a. If at the time of application for a registration or renewal thereof
22 there is a certification from a court or administrative tribunal of
23 appropriate jurisdiction that the registrant or his OR HER represen-
24 tative failed to appear on the return date or any subsequent adjourned
25 date or failed to comply with the rules and regulations of an adminis-
26 trative tribunal following entry of a final decision in response to A
27 TOTAL OF three or more summonses or other process IN THE AGGREGATE,
28 issued within an eighteen month period, charging EITHER that (I) such
29 motor vehicle was parked, stopped or standing, or that such motor vehi-
30 cle was operated for hire by the registrant or his OR HER agent without
31 being licensed as a motor vehicle for hire by the appropriate local
32 authority, in violation of any of the provisions of this chapter or of
33 any law, ordinance, rule or regulation made by a local authority OR (II)
34 THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
35 ELEVEN-B OF THIS CHAPTER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
36 ELEVEN HUNDRED ELEVEN OF THIS CHAPTER, the commissioner or his OR HER
37 agent shall deny the registration or renewal application until the
38 applicant provides proof from the court or administrative tribunal wher-
39 ein the charges are pending that an appearance or answer has been made
40 or in the case of an administrative tribunal that he OR SHE has complied
41 with the rules and regulations of said tribunal following entry of a
42 final decision. Where an application is denied pursuant to this section,
43 the commissioner may, in his OR HER discretion, deny a registration or
44 renewal application to any other person for the same vehicle and may
45 deny a registration or renewal application for any other motor vehicle
46 registered in the name of the applicant where the commissioner has
47 determined that such registrant's intent has been to evade the purposes
48 of this subdivision and where the commissioner has reasonable grounds to
49 believe that such registration or renewal will have the effect of
50 defeating the purposes of this subdivision. Such denial shall only

51 remain in effect as long as the summonses remain unanswered, or in the
52 case of an administrative tribunal, the registrant fails to comply with
53 the rules and regulations following entry of a final decision.

54 S 3. The vehicle and traffic law is amended by adding a new section
55 1111-b to read as follows:

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1 S 1111-B. OWNER LIABILITY FOR FAILURE OF OPERATOR TO COMPLY WITH
2 TRAFFIC-CONTROL INDICATIONS. (A) 1. NOTWITHSTANDING ANY OTHER PROVISION
3 OF LAW, THE COUNTY OF SUFFOLK IS HEREBY AUTHORIZED AND EMPOWERED TO
4 ADOPT AND AMEND A LOCAL LAW OR ORDINANCE ESTABLISHING A DEMONSTRATION
5 PROGRAM IMPOSING MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAIL-
6 URE OF AN OPERATOR THEREOF TO COMPLY WITH TRAFFIC-CONTROL INDICATIONS IN
7 SUCH COUNTY IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. SUCH
8 DEMONSTRATION PROGRAM SHALL EMPOWER SUCH COUNTY TO INSTALL AND OPERATE
9 TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING DEVICES AT NO MORE
10 THAN FIFTY INTERSECTIONS WITHIN AND UNDER THE JURISDICTION OF SUCH COUN-
11 TY AT ANY ONE TIME.

12 2. SUCH DEMONSTRATION PROGRAM SHALL UTILIZE NECESSARY TECHNOLOGIES TO
13 ENSURE, TO THE EXTENT PRACTICABLE, THAT PHOTOGRAPHS PRODUCED BY SUCH
14 TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING SYSTEMS SHALL NOT
15 INCLUDE IMAGES THAT IDENTIFY THE DRIVER, THE PASSENGERS, OR THE CONTENTS
16 OF THE VEHICLE. PROVIDED, HOWEVER, THAT NO NOTICE OF LIABILITY ISSUED
17 PURSUANT TO THIS SECTION SHALL BE DISMISSED SOLELY BECAUSE A PHOTOGRAPH
18 OR PHOTOGRAPHS ALLOW FOR THE IDENTIFICATION OF THE CONTENTS OF A VEHI-
19 CLE, PROVIDED THAT SUCH COUNTY HAS MADE A REASONABLE EFFORT TO COMPLY
20 WITH THE PROVISIONS OF THIS PARAGRAPH.

21 (B) IN ANY SUCH COUNTY WHICH HAS ADOPTED A LOCAL LAW OR ORDINANCE
22 PURSUANT TO SUBDIVISION (A) OF THIS SECTION, THE OWNER OF A VEHICLE
23 SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION IF SUCH
24 VEHICLE WAS USED OR OPERATED WITH THE PERMISSION OF THE OWNER, EXPRESS
25 OR IMPLIED, IN VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED
26 ELEVEN OF THIS ARTICLE, AND SUCH VIOLATION IS EVIDENCED BY INFORMATION
27 OBTAINED FROM A TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING
28 SYSTEM; PROVIDED HOWEVER THAT NO OWNER OF A VEHICLE SHALL BE LIABLE FOR
29 A PENALTY IMPOSED PURSUANT TO THIS SECTION WHERE THE OPERATOR OF SUCH
30 VEHICLE HAS BEEN CONVICTED OF THE UNDERLYING VIOLATION OF SUBDIVISION
31 (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

32 (C) FOR PURPOSES OF THIS SECTION, "OWNER" SHALL HAVE THE MEANING
33 PROVIDED IN ARTICLE TWO-B OF THIS CHAPTER. FOR PURPOSES OF THIS SECTION,
34 "TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING SYSTEM" SHALL MEAN A
35 VEHICLE SENSOR INSTALLED TO WORK IN CONJUNCTION WITH A TRAFFIC-CONTROL
36 SIGNAL WHICH AUTOMATICALLY PRODUCES TWO OR MORE PHOTOGRAPHS, TWO OR MORE
37 MICROPHOTOGRAPHS, A VIDEOTAPE OR OTHER RECORDED IMAGES OF EACH VEHICLE
38 AT THE TIME IT IS USED OR OPERATED IN VIOLATION OF SUBDIVISION (D) OF
39 SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

40 (D) A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY
41 SUFFOLK COUNTY IN WHICH THE CHARGED VIOLATION OCCURRED, OR A FACSIMILE
42 THEREOF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDE-
43 OTAPE OR OTHER RECORDED IMAGES PRODUCED BY A TRAFFIC-CONTROL SIGNAL
44 PHOTO VIOLATION-MONITORING SYSTEM, SHALL BE PRIMA FACIE EVIDENCE OF THE
45 FACTS CONTAINED THEREIN. ANY PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR
46 OTHER RECORDED IMAGES EVIDENCING SUCH A VIOLATION SHALL BE AVAILABLE FOR
47 INSPECTION IN ANY PROCEEDING TO ADJUDICATE THE LIABILITY FOR SUCH
48 VIOLATION PURSUANT TO A LOCAL LAW OR ORDINANCE ADOPTED PURSUANT TO THIS
49 SECTION.

50 (E) AN OWNER LIABLE FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
51 ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO A LOCAL LAW OR ORDI-
52 NANCE ADOPTED PURSUANT TO THIS SECTION SHALL BE LIABLE FOR MONETARY

53 PENALTIES IN ACCORDANCE WITH A SCHEDULE OF FINES AND PENALTIES TO BE SET
54 FORTH IN SUCH LOCAL LAW OR ORDINANCE. THE LIABILITY OF THE OWNER PURSU-
55 ANT TO THIS SECTION SHALL NOT EXCEED FIFTY DOLLARS FOR EACH VIOLATION;
56 PROVIDED, HOWEVER, THAT SUCH LOCAL LAW OR ORDINANCE MAY PROVIDE FOR AN
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1 ADDITIONAL PENALTY NOT IN EXCESS OF TWENTY-FIVE DOLLARS FOR EACH
2 VIOLATION FOR THE FAILURE TO RESPOND TO A NOTICE OF LIABILITY WITHIN THE
3 PRESCRIBED TIME PERIOD.

4 (F) AN IMPOSITION OF LIABILITY UNDER A LOCAL LAW OR ORDINANCE ADOPTED
5 PURSUANT TO THIS SECTION SHALL NOT BE DEEMED A CONVICTION AS AN OPERATOR
6 AND SHALL NOT BE MADE PART OF THE OPERATING RECORD OF THE PERSON UPON
7 WHOM SUCH LIABILITY IS IMPOSED NOR SHALL IT BE USED FOR INSURANCE
8 PURPOSES IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

9 (G) 1. A NOTICE OF LIABILITY SHALL BE SENT BY FIRST CLASS MAIL TO EACH
10 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF SUBDIVISION
11 (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO THIS
12 SECTION. PERSONAL DELIVERY ON THE OWNER SHALL NOT BE REQUIRED. A MANUAL
13 OR AUTOMATIC RECORD OF MAILING PREPARED IN THE ORDINARY COURSE OF BUSI-
14 NESS SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

15 2. A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE
16 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF SUBDIVISION
17 (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO THIS
18 SECTION, THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH
19 VIOLATION, THE LOCATION WHERE SUCH VIOLATION TOOK PLACE, THE DATE AND
20 TIME OF SUCH VIOLATION AND THE IDENTIFICATION NUMBER OF THE CAMERA WHICH
21 RECORDED THE VIOLATION OR OTHER DOCUMENT LOCATOR NUMBER.

22 3. THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE
23 PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST
24 THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO
25 CONTAIN A WARNING TO ADVISE THE PERSONS CHARGED THAT FAILURE TO CONTEST
26 IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABIL-
27 ITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.

28 4. THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY SUFFOLK
29 COUNTY OR BY ANY OTHER ENTITY AUTHORIZED BY SUCH COUNTY TO PREPARE AND
30 MAIL SUCH NOTIFICATION OF VIOLATION.

31 (H) ADJUDICATION OF THE LIABILITY IMPOSED UPON OWNERS BY THIS SECTION
32 SHALL BE BY THE COURT HAVING JURISDICTION OVER TRAFFIC INFRACTIONS.

33 (I) IF AN OWNER RECEIVES A NOTICE OF LIABILITY PURSUANT TO THIS
34 SECTION FOR ANY TIME PERIOD DURING WHICH THE VEHICLE WAS REPORTED TO THE
35 POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT SHALL BE A VALID DEFENSE TO
36 AN ALLEGATION OF LIABILITY FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
37 ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO THIS SECTION THAT THE
38 VEHICLE HAD BEEN REPORTED TO THE POLICE AS STOLEN PRIOR TO THE TIME THE
39 VIOLATION OCCURRED AND HAD NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES
40 OF ASSERTING THE DEFENSE PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFI-
41 CIENT THAT A CERTIFIED COPY OF THE POLICE REPORT ON THE STOLEN VEHICLE
42 BE SENT BY FIRST CLASS MAIL TO THE COURT HAVING JURISDICTION.

43 (J) AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF LIABIL-
44 ITY WAS ISSUED PURSUANT TO SUBDIVISION (G) OF THIS SECTION SHALL NOT BE
45 LIABLE FOR THE VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED
46 ELEVEN OF THIS ARTICLE, PROVIDED THAT HE OR SHE SENDS TO THE COURT
47 HAVING JURISDICTION A COPY OF THE RENTAL, LEASE OR OTHER SUCH CONTRACT
48 DOCUMENT COVERING SUCH VEHICLE ON THE DATE OF THE VIOLATION, WITH THE
49 NAME AND ADDRESS OF THE LESSEE CLEARLY LEGIBLE, WITHIN THIRTY-SEVEN DAYS
50 AFTER RECEIVING NOTICE FROM THE COURT OF THE DATE AND TIME OF SUCH
51 VIOLATION, TOGETHER WITH THE OTHER INFORMATION CONTAINED IN THE ORIGINAL
52 NOTICE OF LIABILITY. FAILURE TO SEND SUCH INFORMATION WITHIN SUCH THIR-
53 TY-SEVEN DAY TIME PERIOD SHALL RENDER THE OWNER LIABLE FOR THE PENALTY

54 PRESCRIBED BY THIS SECTION. WHERE THE LESSOR COMPLIES WITH THE
55 PROVISIONS OF THIS PARAGRAPH, THE LESSEE OF SUCH VEHICLE ON THE DATE OF
56 SUCH VIOLATION SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR
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1 PURPOSES OF THIS SECTION, SHALL BE SUBJECT TO LIABILITY FOR THE
2 VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS
3 ARTICLE PURSUANT TO THIS SECTION AND SHALL BE SENT A NOTICE OF LIABILITY
4 PURSUANT TO SUBDIVISION (G) OF THIS SECTION.

5 (K) 1. IF THE OWNER LIABLE FOR A VIOLATION OF SUBDIVISION (D) OF
6 SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO THIS SECTION
7 WAS NOT THE OPERATOR OF THE VEHICLE AT THE TIME OF THE VIOLATION, THE
8 OWNER MAY MAINTAIN AN ACTION FOR INDEMNIFICATION AGAINST THE OPERATOR.

9 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO OWNER OF A
10 VEHICLE SHALL BE SUBJECT TO A MONETARY FINE IMPOSED PURSUANT TO THIS
11 SECTION IF THE OPERATOR OF SUCH VEHICLE WAS OPERATING SUCH VEHICLE WITH-
12 OUT THE CONSENT OF THE OWNER AT THE TIME SUCH OPERATOR FAILED TO OBEY A
13 TRAFFIC-CONTROL INDICATION. FOR PURPOSES OF THIS SUBDIVISION THERE SHALL
14 BE A PRESUMPTION THAT THE OPERATOR OF SUCH VEHICLE WAS OPERATING SUCH
15 VEHICLE WITH THE CONSENT OF THE OWNER AT THE TIME SUCH OPERATOR FAILED
16 TO OBEY A TRAFFIC-CONTROL INDICATION.

17 (L) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE LIABILITY
18 OF AN OPERATOR OF A VEHICLE FOR ANY VIOLATION OF SUBDIVISION (D) OF
19 SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE.

20 (M) WHEN A COUNTY HAS ESTABLISHED A DEMONSTRATION PROGRAM PURSUANT TO
21 THIS SECTION, ALL FINES AND PENALTIES COLLECTED UNDER SUCH PROGRAM SHALL
22 BE MADE TO THE COUNTY TREASURER WITHIN THE FIRST TEN DAYS OF THE MONTH
23 FOLLOWING COLLECTION.

24 (N) IN ANY SUCH COUNTY WHICH ADOPTS A DEMONSTRATION PROGRAM PURSUANT
25 TO SUBDIVISION (A) OF THIS SECTION, SUCH COUNTY SHALL SUBMIT AN ANNUAL
26 REPORT ON THE RESULTS OF THE USE OF A TRAFFIC-CONTROL SIGNAL PHOTO
27 VIOLATION-MONITORING SYSTEM TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF
28 THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON OR BEFORE JUNE FIRST, TWO
29 THOUSAND TEN AND ON THE SAME DATE IN EACH SUCCEEDING YEAR IN WHICH THE
30 DEMONSTRATION PROGRAM IS OPERABLE. SUCH REPORT SHALL INCLUDE, BUT NOT BE
31 LIMITED TO:

32 1. A DESCRIPTION OF THE LOCATIONS WHERE TRAFFIC-CONTROL SIGNAL PHOTO
33 VIOLATION-MONITORING SYSTEMS WERE USED;

34 2. THE AGGREGATE NUMBER, TYPE AND SEVERITY OF ACCIDENTS REPORTED AT
35 INTERSECTIONS WHERE A TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING
36 SYSTEM IS USED FOR THE YEAR PRECEDING THE INSTALLATION OF SUCH SYSTEM,
37 TO THE EXTENT THE INFORMATION IS MAINTAINED BY THE DEPARTMENT OF MOTOR
38 VEHICLES OF THIS STATE;

39 3. THE AGGREGATE NUMBER, TYPE AND SEVERITY OF ACCIDENTS REPORTED AT
40 INTERSECTIONS WHERE A TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING
41 SYSTEM IS USED, TO THE EXTENT THE INFORMATION IS MAINTAINED BY THE
42 DEPARTMENT OF MOTOR VEHICLES OF THIS STATE;

43 4. THE NUMBER OF VIOLATIONS RECORDED AT EACH INTERSECTION WHERE A
44 TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING SYSTEM IS USED AND IN
45 THE AGGREGATE ON A DAILY, WEEKLY AND MONTHLY BASIS;

46 5. THE TOTAL NUMBER OF NOTICES OF LIABILITY ISSUED FOR VIOLATIONS
47 RECORDED BY SUCH SYSTEMS;

48 6. THE NUMBER OF FINES AND TOTAL AMOUNT OF FINES PAID AFTER FIRST
49 NOTICE OF LIABILITY;

50 7. THE NUMBER OF VIOLATIONS ADJUDICATED AND RESULTS OF SUCH ADJUDI-
51 CATIONS INCLUDING BREAKDOWNS OF DISPOSITION MADE FOR VIOLATIONS RECORDED
52 BY SUCH SYSTEMS;

53 8. THE TOTAL AMOUNT OF REVENUE REALIZED BY SUCH COUNTY;

54 9. EXPENSES INCURRED BY SUCH COUNTY IN CONNECTION WITH THE PROGRAM;

55 AND

56 10. QUALITY OF THE ADJUDICATION PROCESS AND ITS RESULTS.

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1 (O) IT SHALL BE A DEFENSE TO ANY PROSECUTION FOR A VIOLATION OF SUBDI-
2 VISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS ARTICLE PURSUANT TO
3 A LOCAL LAW OR ORDINANCE ADOPTED PURSUANT TO THIS SECTION THAT SUCH
4 TRAFFIC-CONTROL INDICATIONS WERE MALFUNCTIONING AT THE TIME OF THE
5 ALLEGED VIOLATION.

6 S 4. The opening paragraph and paragraph (c) of subdivision 1 of
7 section 1809 of the vehicle and traffic law, as amended by section 2 of
8 part DD of chapter 56 of the laws of 2008, are amended to read as
9 follows:

10 Whenever proceedings in an administrative tribunal or a court of this
11 state result in a conviction for an offense under this chapter or a
12 traffic infraction under this chapter, or a local law, ordinance, rule
13 or regulation adopted pursuant to this chapter, other than a traffic
14 infraction involving standing, stopping, or parking or violations by
15 pedestrians or bicyclists, or other than an adjudication of liability of
16 an owner for a violation of subdivision (d) of section eleven hundred
17 eleven of this chapter in accordance with section eleven hundred
18 eleven-a of this chapter, OR OTHER THAN AN ADJUDICATION OF LIABILITY OF
19 AN OWNER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED
20 ELEVEN OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
21 ELEVEN-B OF THIS CHAPTER, there shall be levied a crime victim assist-
22 ance fee and a mandatory surcharge, in addition to any sentence required
23 or permitted by law, in accordance with the following schedule:

24 (c) Whenever proceedings in an administrative tribunal or a court of
25 this state result in a conviction for an offense under this chapter
26 other than a crime pursuant to section eleven hundred ninety-two of this
27 chapter, or a traffic infraction under this chapter, or a local law,
28 ordinance, rule or regulation adopted pursuant to this chapter, other
29 than a traffic infraction involving standing, stopping, or parking or
30 violations by pedestrians or bicyclists, or other than an adjudication
31 of liability of an owner for a violation of subdivision (d) of section
32 eleven hundred eleven of this chapter in accordance with section eleven
33 hundred eleven-a of this chapter, OR OTHER THAN AN ADJUDICATION OF
34 LIABILITY OF AN OWNER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
35 ELEVEN HUNDRED ELEVEN OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN
36 HUNDRED ELEVEN-B OF THIS CHAPTER, or other than an infraction pursuant
37 to article nine of this chapter or other than an adjudication of liabil-
38 ity of an owner for a violation of toll collection regulations pursuant
39 to section two thousand nine hundred eighty-five of the public authori-
40 ties law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven
41 hundred seventy-four of the laws of nineteen hundred fifty, there shall
42 be levied a crime victim assistance fee in the amount of five dollars
43 and a mandatory surcharge, in addition to any sentence required or
44 permitted by law, in the amount of fifty-five dollars.

45 S 5. The opening paragraph of subdivision 1 of section 1809 of the
46 vehicle and traffic law, as amended by chapter 190 of the laws of 1990,
47 is amended to read as follows:

48 Whenever proceedings in an administrative tribunal or a court of this
49 state result in a conviction for a crime under this chapter or a traffic
50 infraction under this chapter, or a local law, ordinance, rule or regu-
51 lation adopted pursuant to this chapter, other than a traffic infraction
52 involving standing, stopping, parking or motor vehicle equipment or
53 violations by pedestrians or bicyclists, or other than an adjudication
54 of liability of an owner for a violation of subdivision (d) of section
55 eleven hundred eleven of this chapter in accordance with section eleven

56 hundred eleven-a of this chapter, OR OTHER THAN AN ADJUDICATION OF
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1 LIABILITY OF AN OWNER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION
2 ELEVEN HUNDRED ELEVEN OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN
3 HUNDRED ELEVEN-B OF THIS CHAPTER, there shall be levied a mandatory
4 surcharge, in addition to any sentence required or permitted by law, in
5 the amount of twenty-five dollars.

6 S 6. Paragraph a of subdivision 1 of section 1809-e of the vehicle and
7 traffic law, as amended by section 1 of part EE of chapter 56 of the
8 laws of 2008, is amended to read as follows:

9 a. Notwithstanding any other provision of law, whenever proceedings
10 in a court or an administrative tribunal of this state result in a
11 conviction for an offense under this chapter, except a conviction pursu-
12 ant to section eleven hundred ninety-two of this chapter, or for a traf-
13 fic infraction under this chapter, or a local law, ordinance, rule or
14 regulation adopted pursuant to this chapter, except a traffic infraction
15 involving standing, stopping, or parking or violations by pedestrians or
16 bicyclists, and except an adjudication of liability of an owner for a
17 violation of subdivision (d) of section eleven hundred eleven of this
18 chapter in accordance with section eleven hundred eleven-a of this chap-
19 ter, AND EXCEPT AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION
20 OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS CHAPTER IN
21 ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, and
22 except an adjudication of liability of an owner for a violation of toll
23 collection regulations pursuant to section two thousand nine hundred
24 eighty-five of the public authorities law or sections sixteen-a,
25 sixteen-b and sixteen-c of chapter seven hundred seventy-four of the
26 laws of nineteen hundred fifty, there shall be levied in addition to any
27 sentence, penalty or other surcharge required or permitted by law, an
28 additional surcharge of twenty dollars.

29 S 7. Subdivision 2 of section 87 of the public officers law is amended
30 by adding a new paragraph (k) to read as follows:

31 (K) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED
32 IMAGES PREPARED UNDER AUTHORITY OF SECTION ELEVEN HUNDRED ELEVEN-B OF
33 THE VEHICLE AND TRAFFIC LAW.

34 S 8. The purchase or lease of equipment for a demonstration program
35 established pursuant to section 1111-b of the vehicle and traffic law
36 shall be subject to the provisions of section 103 of the general municipi-
37 pal law.

38 S 9. This act shall take effect on the thirtieth day after it shall
39 have become a law and shall expire December 1, 2014 when upon such date
40 the provisions of this act shall be deemed repealed; provided that the
41 amendments to paragraph a of subdivision 5-a of section 401 of the vehi-
42 cle and traffic law made by section one of this act shall be subject to
43 the expiration and reversion of such paragraph pursuant to section 17 of
44 chapter 746 of the laws of 1988, as amended, when upon such date the
45 provisions of section two of this act shall take effect; provided that
46 the amendments to the opening paragraph and paragraph (c) of subdivision
47 1 of section 1809 of the vehicle and traffic law made by section four of
48 this act shall be subject to the expiration and reversion of such subdi-
49 vision pursuant to chapter 166 of the laws of 1991, as amended, when
50 upon such date the provisions of section five of this act shall take
51 effect; provided, however, that the amendments to the opening paragraph
52 of subdivision 1 of section 1809 of the vehicle and traffic law made by
53 section five of this act shall not affect the expiration of such subdi-
54 vision and shall expire therewith; and provided, further, that any such
55 local laws as may be enacted pursuant to this act shall remain in full
56 force and effect only until December 1, 2014.

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