

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1989**

No. 46

Introduced by Council Members Maloney, Dryfoos, Eisland, Harrison, Katzman, Pinkett, Horwitz, Berman and McCaffrey; also Council Members Messinger and Michels

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to civil liability of vehicle owners to traffic control signal violations and providing for the expiration of such provisions upon the expiration of three years from the date on which the state enabling legislation shall have become law.

Be it enacted by the Council as follows:

Section 1. The administrative code of the city of New York is amended by adding a new section 19-210 to read as follows:

§19-210. Owner liability for failure of operator to comply with traffic-control indications. (a) Notwithstanding any other provision of law, the parking violations bureau 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 traffic-control indications in accordance with the provisions of this section. The department, for purposes of implementation of such program, shall be authorized to install and operate traffic-control signal violation-monitoring devices at no more than twenty-five intersections at any one time.

(b) 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 the vehicle and traffic law, and such violation is evidenced by information obtained from a traffic-control signal 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 the vehicle and traffic law.

(c) For purposes of this section, "owner" shall mean any person, corporation, partnership, firm, agency, association, lessor, or organization who at the time of the issuance of a notice of violation 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 or subdivision (a) of section twenty-one hundred one of the vehicle and traffic law.*

(d) For purposes of this section, "traffic-control signal violation-monitoring system" shall mean a device installed to work in conjunction with a traffic-control signal which, during operation, 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 the vehicle and traffic law.

(e) A certificate, sworn to or affirmed by a technician employed by the department, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal 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 imposed pursuant to this section.

(f) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of the vehicle and traffic law pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be promulgated by such bureau; provided however, that the amount of monetary penalties for each such violation shall not exceed fifty dollars. Such bureau shall adjudicate liability imposed by this section.

(g) An imposition of liability under 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.

(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 subdivision (d) of section eleven hundred eleven of the vehicle and traffic law pursuant to this section. Personal service 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 the vehicle and traffic law 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 bureau or its designee.

(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 the vehicle and traffic law 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, return receipt requested, to such bureau.

(j) If the owner liable for a violation of subdivision (d) of section eleven hundred eleven of the vehicle and traffic law 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.

(k) An appeal of an adjudication of liability pursuant to this section may be taken in accordance with the provisions of section 19-208.

(l) 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 subdivision (d) of section eleven hundred eleven of the vehicle and traffic law provided that:

A. prior to the violation the lessor has filed with the bureau and paid the required filing fee in accordance with the provisions of section two hundred thirty-nine of the vehicle and traffic law; 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.

2. Failure to comply with subparagraph B or 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 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.

(m) 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 the vehicle and traffic law.

(n) On or before September 1, 1989, and every four months thereafter, until such time as the demonstration program authorized in subdivision (a) hereof shall be fully operational, the commissioner shall submit a written report to the council on the status of said demonstration program. Such report shall include, but not be limited to, the locations selected for inclusion in the demonstration program and the cost to the city, both individually and collectively, of each location included in such demonstration project.

(o) The commissioner shall submit to the governor, the temporary president of the senate, speaker of the assembly and the council a report on the results of the use of a traffic-control signal violation-monitoring system on or before March first, nineteen hundred ninety-one. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo-monitoring systems were used;

2. the number of violations recorded at each intersection and in the aggregate on a daily, weekly and monthly basis;

3. the total number of notices of liability issued;

4. the number of fines and total amount of fines paid after 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

7. quality of the adjudication process and its results.

§2. This local law shall take effect immediately and shall expire on December 26, 1991.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 23, 1989, and approved by the Mayor on July 7, 1989.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed local law (Local Law 46 of 1989, Council Int. No. 1269) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 23, 1989:
32 for, 0 against

Was approved by the Mayor on July 7, 1989.

Was returned to the City Clerk on July 7, 1989.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel