

LOCAL LAW INTRO. NO. \_\_\_\_\_ 2024

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 709 relating to the establishment of The Westchester County Red Light Camera Demonstration Program.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 709 is hereby added to the Laws of Westchester County to read as follows:

**Chapter 709**

**WESTCHESTER COUNTY RED LIGHT CAMERA DEMONSTRATION PROGRAM**

**Sec. 709.11. Short Title**

**Sec. 709.21 Definitions.**

**Sec. 709.31. Demonstration Program.**

**Sec. 709.41. Notice of Liability.**

**Sec. 709.51. Adjudication of Liability.**

**Sec. 709.61. Prima Facie Evidence.**

**Sec. 709.71. Fines and Penalties.**

**Sec. 709.81 Defenses.**

**Sec. 709.91 Annual Report.**

**Sec. 709.101 Traffic Control Signal Photo Violation-Monitoring System Equipment.**

**Sec. 709.111 Severability.**

**Sec. 709.11 Short Title.**

**This Chapter shall be known and cited as "The Westchester County Red Light Camera Demonstration Program."**

**Sec. 709.21 Definitions.**

A. **For purposes of this Chapter, "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 such 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 the State of New York 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 § 128 or Subdivision (a) of § 2101 of the New York State Vehicle and Traffic Law.

B. For purposes of this Chapter, "Traffic Control Signal Photo Violation-Monitoring Device" or "TCSPVMD" shall mean a vehicle sensor 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 § 1111 of the New York State Vehicle and Traffic Law regarding traffic control signal indications and the requirements of red light indications, as defined therein.

#### **Sec. 709.31 Demonstration Program.**

A. The County of Westchester 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 Chapter. For purposes of implementation of such program, the County shall be authorized to install and operate Traffic Control Signal Photo Violation-Monitoring Devices at no more than fifty intersections within and under the jurisdiction of the County at any one time.

B. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such TCSPVMD 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 the vehicle, provided that the County has made a reasonable effort to comply with the provisions of this subsection.

C. The Owner of a vehicle shall be liable for a penalty imposed pursuant to this Chapter if such vehicle was used or operated: (1) with the permission of the Owner, express or implied; (2) in violation of Subdivision (d) of § 1111 of the New York State Vehicle and Traffic Law; and (3) such violation is evidenced by information obtained from the TCSPVMD. No Owner of the vehicle shall be liable for a penalty imposed pursuant to this Chapter where the operator of such vehicle has been convicted of the underlying violation of Subdivision (d) of §1111 of the New York State Vehicle and Traffic Law.

D. The County shall not place one or more Traffic Control Signal Photo Violation-Monitoring Devices at intersections within and under the jurisdiction and control of the County which are located within the Cities of White Plains, Mount Vernon, Yonkers or New Rochelle, without first providing such municipality with notice of its intention to do so. Such municipality shall provide the County, in writing, with its consent or objection to such installation within thirty (30) days of receipt of said notice. Should the County receive an objection to the placement of a TCSPVMD in accordance with this section, then the County shall be prohibited from such installation. In the event that the County does not receive any response to the

placement of a TCSPVMD within thirty (30) days of receipt of notice from the County, or by such other deadline as may be mutually agreed upon, then the County shall be permitted to place any TCSPVMD included in said notice within the jurisdiction of the municipality to which the notice was addressed.

**Sec. 709.41 Notice of Liability.**

A. 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 § 1111 of the New York State Vehicle and Traffic Law pursuant to this Chapter. 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.

B. 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 § 1111 of the New York State Vehicle and Traffic Law pursuant to this Chapter, 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.

C. The notice of liability shall also 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.

D. The notice of liability shall be prepared and mailed by the County or by any other entity authorized to do so by the County to prepare and mail such notification of liability.

**Sec. 709.51 Adjudication of Liability.**

Adjudication of the liability imposed upon owners by this Chapter shall be by the court having jurisdiction over traffic infractions in the locality where the violation occurred.

**Sec. 709.61 Prima Facie Evidence.**

A certificate, sworn to or affirmed by a technician employed, hired or contracted by the County, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a Traffic Control Signal Photo Violation-Monitoring 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 imposed pursuant to this Chapter.

**Sec. 709.71 Violations and Penalties.**

A. An Owner liable for a violation of Subdivision (d) of §1111 of the New York

State Vehicle and Traffic Law pursuant to this section shall be liable for a maximum monetary penalty of \$50 for each violation. An Owner shall be liable for an additional penalty not to exceed \$25 for each violation for the failure to respond to a notice of liability within the prescribed time period.

B. An imposition of liability under this Chapter 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.

C. Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of Subdivision (d) of § 1111 of the New York State Vehicle and Traffic Law.

D. 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 the county pursuant to such demonstration program shall be paid to the New York 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 eighty percent (80%) of any such fine or penalty imposed for such liability to the County of Westchester, and twenty percent (20%) of any such fine or penalty to the city, town or village in which the violation giving rise to the liability occurred.

#### Sec. 709.81 Defenses.

A. If an Owner receives a notice of liability pursuant to this Chapter 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 § 1111 of the New York State Vehicle and Traffic Law pursuant to this Chapter 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 subsection 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.

B. An Owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to this Chapter shall not be liable for the violation of Subdivision (d) of § 1111 of the New York State Vehicle and Traffic law, 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 (37) 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 (37) day time period shall render the Owner liable for the penalty prescribed by this Chapter. 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 Chapter, shall

be subject to liability for the violation of Subdivision (d) of § 1111 of the New York State Vehicle and Traffic law article pursuant to this Chapter and shall be sent a notice of liability pursuant to this Chapter.

C. If the Owner liable for a violation of Subdivision (d) of § 1111 of the New York State Vehicle and Traffic Law pursuant to this Chapter was not the operator of the vehicle at the time of the violation, the Owner may maintain an action for indemnification against the operator.

D. Notwithstanding any other provision of this Chapter, no Owner of a vehicle shall be subject to a monetary fine imposed pursuant to this Chapter 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 Chapter, 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.

E. No Owner of a vehicle shall be liable for a penalty imposed pursuant to this Chapter where the operator of such vehicle has been convicted of the underlying violation of Subdivision (d) of § 1111 of the New York State Vehicle and Traffic Law.

F. It shall be a defense to any prosecution for a violation of Subdivision (d) of § 1111 of the New York State Vehicle and Traffic Law pursuant to this Chapter that such traffic control indications were malfunctioning at the time of the alleged violation.

#### **Sec. 709.91 Annual Report.**

The Commissioner of the Department of Public Safety shall submit to the Governor, the temporary President of the Senate, the Speaker of the Assembly, the County Executive and the County Board of Legislators, an annual report of the results of the use of a Traffic Control Signal Photo Violation-Monitoring Device on or before June 1, 2025, 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 TCSPVMDs were used;
2. The aggregate number, type and severity of accidents reported at those intersections for the year preceding the installation of a TCSPVMD, to the extent the information is maintained by the New York State Department of Motor Vehicles;
3. The aggregate number, type and severity of accidents reported at intersections where a TCSPVMD is used, as well as for each year that the TCSPVMD has been operating to the extent the information is maintained by the New York State Department of Motor Vehicles;
4. The number of events and number of violations recorded at each intersection where a TCSPVMD 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 TCSPVMD is used;
6. The number of fines imposed and total amount of fines paid after the 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 the County by the respective courts and bureaus conducting such adjudications;
8. The total amount of revenue realized by the County from such adjudications including a breakdown of revenue realized by the County for each year since deployment of its TCSPVMD;
9. Expenses incurred by the County in connection with the program; and
10. Quality of the adjudication process and its results which shall be provided at least annually to the County by the respective courts and bureaus conducting such adjudications.

**Sec. 709.101 Traffic Control Signal Photo Violation Monitoring Device Equipment.**

The purchase or lease of equipment for the demonstration program established by this Chapter shall be subject to the provisions of § 103 of the New York State General Municipal Law, and of the provisions of Chapter 161 and Part XIV of the Laws of Westchester County.

**Sec. 709.111 Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this ordinance or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this ordinance, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§2. This Local Law shall take effect one hundred and eighty (180) days after enactment, and shall expire on the same date that the New York State Law authorizing such demonstration program expires.