

HOME RULE REQUEST RESOLUTION NO. ____ - 2023

RESOLVED, that the Westchester County Board of Legislators approves the making of a Home Rule Request in the following format:

To the Legislature:

Pursuant to Article IX of the Constitution, the County of Westchester requests the enactment of Senate Bill No. S7026-B / Assembly Bill No. A7206-B entitled "AN ACT to amend the vehicle and traffic law, in relation to adjudications and owner liability for a violation of traffic-control signal indications in the county of Westchester; to amend the public officers law, in relation to accessing records; and providing for the repeal of certain provisions upon expiration thereof"

A necessity exists for the enactment of this legislation because the local government does not have the power to enact such legislation by local law.

Dated: June 5, 2023
White Plains, New York

Margaret A. Cijio (WDP)

and

Benjamin Baylen II

Vedat Fathi

Colin [Signature]

COMMITTEE ON Legislation

Dated: June 5, 2023

White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Handwritten signature of Nancy E. Pan in cursive script.Handwritten signature of Christopher in cursive script.

COMMITTEE ON

Legislation

STATE OF NEW YORK

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2023-2024 Regular Sessions

IN ASSEMBLY

May 12, 2023

Introduced by M. of A. PRETLOW, SAYEGH -- read once and referred to the Committee on Transportation -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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

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

- 1 Section 1. The vehicle and traffic law is amended by adding a new
- 2 section 1111-g to read as follows:

3 § 1111-g. 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 Westchester 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

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

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1 pursuant to this section shall be dismissed solely
because a photograph
2 or photographs allow for the identification of
the contents of a vehi-

3 cle, provided that such county has made a
4 reasonable effort to comply

5 with the provisions of this paragraph.

6 (b) In any such county which has adopted a
7 local law or ordinance

8 pursuant to subdivision (a) of this section, the
9 owner of a vehicle

10 shall be liable for a penalty imposed pursuant to
11 this section if such

12 vehicle was used or operated with the permission of
13 the owner, express

14 or implied, in violation of subdivision (d) of
15 section eleven hundred

16 eleven of this article, and such violation is
17 evidenced by information

18 obtained from a traffic-control signal photo
19 violation-monitoring

20 system; provided however that no owner of a vehicle
21 shall be liable for

22 a penalty imposed pursuant to this section where
23 the operator of such

24 vehicle has been convicted of the underlying
25 violation of subdivision

26 (d) of section eleven hundred eleven of this
27 article.

28 (c) For purposes of this section, "owner"
29 shall have the meaning

30 provided in article two-B of this chapter. For
31 purposes of this section,

32 "traffic-control signal photo violation-monitoring
33 system" shall mean a

34 vehicle sensor installed to work in conjunction
35 with a traffic-control

36 signal which automatically produces two or more
37 photographs, two or more

38 microphotographs, a videotape or other recorded
39 images of each vehicle

40 at the time it is used or operated in violation
41 of subdivision (d) of

42 section eleven hundred eleven of this article.

43 (d) A certificate, sworn to or affirmed by a
44 technician employed by

45 Westchester county in which the charged violation
46 occurred, or a facsim-

26 ile thereof, based upon inspection of
photographs, microphotographs,
27 videotape or other recorded images produced by a
traffic-control signal
28 photo violation-monitoring system, shall be prima
facie evidence of the
29 facts contained therein. Any photographs,
microphotographs, videotape
30 or other recorded images evidencing such a
violation shall be available
31 for inspection in any proceeding to adjudicate the
liability for such
32 violation pursuant to a local law or ordinance
adopted pursuant to this
33 section.

34 (e) An owner liable for a violation of
subdivision (d) of section
35 eleven hundred eleven of this article pursuant to
a local law or ordi-
36 nance adopted pursuant to this section shall be
liable for monetary
37 penalties in accordance with a schedule of fines
and penalties to be set
38 forth in such local law or ordinance. The
liability of the owner pursu-
39 ant to this section shall not exceed fifty
dollars for each violation;
40 provided, however, that such local law or ordinance
may provide for an
41 additional penalty not in excess of twenty-
five dollars for each
42 violation for the failure to respond to a notice of
liability within the
43 prescribed time period.

44 (f) An imposition of liability under a local law
or ordinance adopted
45 pursuant to this section shall not be deemed a
conviction as an operator
46 and shall not be made part of the operating
record of the person upon
47 whom such liability is imposed nor shall it be
used for insurance
48 purposes in the provision of motor vehicle
insurance coverage.

49 (g) 1. A notice of liability shall be sent by
50 first class mail to each
51 person alleged to be liable as an owner for a
52 violation of subdivision
53 (d) of section eleven hundred eleven of this
54 article pursuant to this
55 section. Personal delivery on the owner shall not
56 be required. A manual
57 or automatic record of mailing prepared in the
58 ordinary course of busi-
59 ness shall be prima facie evidence of the facts
60 contained therein.

61 2. A notice of liability shall contain the
62 name and address of the
63 person alleged to be liable as an owner for a
64 violation of subdivision

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65 (d) of section eleven hundred eleven of this
66 article pursuant to this
67 section, the registration number of the
68 vehicle involved in such
69 violation, the location where such violation
70 took place, the date and
71 time of such violation and the identification
72 number of the camera which
73 recorded the violation or other document locator
74 number.
75 3. The notice of liability shall contain
76 information advising the
77 person charged of the manner and the time in which
78 he or she may contest
79 the liability alleged in the notice. Such notice of
80 liability shall also
81 contain a warning to advise the persons charged
82 that failure to contest
83 in the manner and time provided shall be deemed an
84 admission of liabil-
85 ity and that a default judgment may be entered
86 thereon.
87 4. The notice of liability shall be prepared and
88 mailed by Westchester
89 county or by any other entity authorized by such
90 county to prepare and

14 mail such notification of violation.
15 (h) Adjudication of the liability imposed upon
owners by this section
16 shall be by a traffic violations bureau established
pursuant to section
17 three hundred seventy of the general municipal
law where the violation
18 occurred or, if there be none, by the court
having jurisdiction over
19 traffic infractions.
20 (i) If an owner receives a notice of
liability pursuant to this
21 section for any time period during which the
vehicle was reported to the
22 police department as having been stolen, it shall
be a valid defense to
23 an allegation of liability for a violation of
subdivision (d) of section
24 eleven hundred eleven of this article pursuant to
this section that the
25 vehicle had been reported to the police as stolen
prior to the time the
26 violation occurred and had not been recovered by
such time. For purposes
27 of asserting the defense provided by this
subdivision it shall be suffi-
28 cient that a certified copy of the police report
on the stolen vehicle
29 be sent by first class mail to the court having
jurisdiction.
30 (j) An owner who is a lessor of a vehicle to
which a notice of liabil-
31 ity was issued pursuant to subdivision (g) of this
section shall not be
32 liable for the violation of subdivision (d) of
section eleven hundred
33 eleven of this article, provided that he or she
sends to the court
34 having jurisdiction a copy of the rental, lease
or other such contract
35 document covering such vehicle on the date of the
violation, with the
36 name and address of the lessee clearly legible,
within thirty-seven days

37 after receiving notice from the court of the
38 date and time of such
39 violation, together with the other information
40 contained in the original
41 notice of liability. Failure to send such
42 information within such thir-
43 ty-seven day time period shall render the owner
44 liable for the penalty
45 prescribed by this section. Where the lessor
46 complies with the
47 provisions of this subdivision, the lessee of such
48 vehicle on the date
49 of such violation shall be deemed to be the
50 owner of such vehicle for
51 purposes of this section, shall be subject to
52 liability for the
53 violation of subdivision (d) of section eleven
54 hundred eleven of this
55 article pursuant to this section and shall be sent
56 a notice of liability
57 pursuant to subdivision (g) of this section.
58 (k) 1. If the owner liable for a violation of
59 subdivision (d) of
60 section eleven hundred eleven of this article
61 pursuant to this section
62 was not the operator of the vehicle at the time of
63 the violation, the
64 owner may maintain an action for indemnification
65 against the operator.
66 2. Notwithstanding any other provision of this
67 section, no owner of a
68 vehicle shall be subject to a monetary fine
69 imposed pursuant to this
70 section if the operator of such vehicle was
71 operating such vehicle with-
72 out the consent of the owner at the time such
73 operator failed to obey a
74 traffic-control indication. For purposes of this
75 subdivision there shall

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1 be a presumption that the operator of such vehicle
2 was operating such

2 vehicle with the consent of the owner at the time
such operator failed

3 to obey a traffic-control indication.

4 (l) Nothing in this section shall be construed
to limit the liability

5 of an operator of a vehicle for any violation of
subdivision (d) of

6 section eleven hundred eleven of this article.

7 (m) When a county has established a
demonstration program pursuant to

8 this section, all fines and penalties collected
under such program shall

9 be distributed in accordance with subdivision
thirteen of section eigh-

10 teen hundred three of this chapter.

11 (n) Any county that adopts a demonstration
program pursuant to subdi-

12 vision (a) of this section shall submit an annual
report detailing the

13 results of the use of such traffic-control signal
photo violation-moni-

14 toring system to the governor, the temporary
president of the senate and

15 the speaker of the assembly on or before June
first, two thousand twen-

16 ty-four and on the same date in each succeeding
year in which the demon-

17 stration program is operable. Such report
shall include, but not be

18 limited to:

19 1. a description of the locations where traffic-
control signal photo

20 violation-monitoring systems were used;

21 2. the aggregate number, type and severity of
accidents reported at

22 intersections where a traffic-control signal photo
violation-monitoring

23 system is used for the three years preceding the
installation of such

24 system, to the extent the information is maintained
by the department;

25 3. the aggregate number, type and severity of
accidents reported at

26 intersections where a traffic-control signal photo violation-monitoring

27 system is used for the reporting year, as well as for each year that the

28 traffic-control signal photo violation-monitoring system has been opera-

29 tional, to the extent the information is maintained by the department;

30 4. the number of events and number of violations recorded at each

31 intersection where a traffic-control signal photo violation-monitoring

32 system is used and in the aggregate on a daily, weekly and monthly

33 basis;

34 5. the number of notices of liability issued for violations recorded

35 by such system at each intersection where a traffic-control signal photo

36 violation-monitoring system is used;

37 6. the number of fines imposed and total amount of fines paid after

38 first notice of liability;

39 7. the number and percentage of violations adjudicated and results of

40 such adjudications including breakdowns of disposition made for

41 violations recorded by such systems which shall be provided at least

42 annually to such county by the respective courts and bureaus conducting

43 such adjudications;

44 8. the total amount of revenue realized by such county from such adju-

45 dications including a breakdown of revenue realized by such county for

46 each year since deployment of its traffic-control signal photo viola-

47 tion-monitoring system;

48 9. expenses incurred by such county in connection with the program;

49 and

50 10. quality of the adjudication process and its results which shall be

51 provided at least annually to such county by the
52 respective courts and

53 bureaus conducting such adjudications.

54 (o) It shall be a defense to any prosecution for
55 a violation of subdi-

56 vision (d) of section eleven hundred eleven of
57 this article pursuant to

58 a local law or ordinance adopted pursuant to this
59 section that such

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1 traffic-control indications were malfunctioning
2 at the time of the

3 alleged violation.

4 § 2. Section 1803 of the vehicle and traffic law
5 is amended by adding

6 a new subdivision 13 to read as follows:

7 13. Where the county of Westchester has
8 established a demonstration

9 program imposing monetary liability on the owner
10 of a vehicle for fail-

11 ure of an operator thereof to comply with
12 subdivision (d) of section

13 eleven hundred eleven of this chapter in
14 accordance with section eleven

15 hundred eleven-g of this chapter, any fine or
16 penalty collected by a

17 court, judge, magistrate or other officer for an
18 imposition of liability

19 which occurs within a city, town or village within
20 such county pursuant

21 to such program shall be paid to the state
22 comptroller within the first

23 ten days of the month following collection, except
24 as otherwise provided

25 in subdivision three of section ninety-nine-a of
26 the state finance law.

27 Every such payment shall be accompanied by a
28 statement in such form and

29 detail as the comptroller shall provide. The
30 comptroller shall pay

31 eighty percent of any such fine or penalty imposed
32 for such liability to

18 the county of Westchester, and twenty percent of
19 any such fine or penal-
20 ty to the city, town or village in which the
21 violation giving rise to
22 the liability occurred. All fines, penalties and
23 forfeitures paid to a
24 city, town or village pursuant to the provisions
25 of this subdivision
26 shall be credited to the general fund of such
27 city, town or village,
28 unless a different disposition is prescribed by
29 charter, special law,
30 local law or ordinance.

31 § 3. Subdivision 2 of section 87 of the public
32 officers law is amended
33 by adding a new paragraph (t) to read as follows:
34 (t) are photographs, microphotographs,
35 videotape or other recorded
36 images prepared under authority of section eleven
37 hundred eleven-g of
38 the vehicle and traffic law.

39 § 4. The purchase or lease of equipment for a
40 demonstration program
41 established pursuant to section 1111-g of the
42 vehicle and traffic law
43 shall be subject to the provisions of section 103
44 of the general municipi-
45 pal law.

46 § 5. This act shall take effect on the
47 thirtieth day after it shall
48 have become a law and shall expire and be deemed
49 repealed on December 1,
50 2027, provided, further, that any such local law
51 as may be enacted
52 pursuant to section one of this act shall
53 remain in full force and
54 effect only until December 1, 2027.

A07206 Memo:

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A7206A

SPONSOR: Pretlow

TITLE OF BILL:

An act to amend the vehicle and traffic law, in relation to adjudications and owner liability for a violation of traffic-control signal indications in the county of Westchester; to amend the public officers law, in relation to accessing records; and providing for the repeal of certain provisions upon expiration thereof

PURPOSE:

This legislation will prevent reckless driving, reduce the number of accidents, while making the streets of Westchester County safer for drivers and pedestrians.

SUMMARY OF PROVISIONS:

Section 1. The vehicle and traffic law is amended by adding a new section 1111-g:

§ 2. Section 1803 of the vehicle and traffic law is amended by adding a new subdivision 13:

§ 3. Subdivision 2 of section 87 of the public officers law, is amended by adding a new paragraph (t):

§ 4. The purchase or lease of equipment for a demonstration program established pursuant to section 1111-g of the vehicle and traffic law shall be subject to the provisions of section 103 of the general municipal law

§ 5. Effective Date:

JUSTIFICATION:

Westchester County police have witnessed an uptick in drivers moving through red lights. The Red Light Camera program has shown effectiveness in other jurisdictions in reducing such incidents and promoting greater public safety. Westchester seeks the State's permission to implement a system at the traffic signals with the highest accident rates in order to dissuade drivers of unsafe driving habits.

FISCAL IMPLICATIONS:

To be determined

EFFECTIVE DATE:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire and be deemed repealed on December 1, 2027, provided, further, that any such local law as may be enacted.