

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: 2023
White Plains, New York

COMMITTEE ON _____

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 file thereof, based upon inspection of
27 photographs, microphotographs,
28 videotape or other recorded images produced by a
29 traffic-control signal
30 photo violation-monitoring system, shall be prima
31 facie evidence of the
32 facts contained therein. Any photographs,
33 microphotographs, videotape
34 or other recorded images evidencing such a
35 violation shall be available
36 for inspection in any proceeding to adjudicate the
37 liability for such
38 violation pursuant to a local law or ordinance
39 adopted pursuant to this
40 section.
41 (e) An owner liable for a violation of
42 subdivision (d) of section
43 eleven hundred eleven of this article pursuant to
44 a local law or ordi-
45 nance adopted pursuant to this section shall be
46 liable for monetary
47 penalties in accordance with a schedule of fines
48 and penalties to be set
49 forth in such local law or ordinance. The
50 liability of the owner pursu-
51 ant to this section shall not exceed fifty
52 dollars for each violation;
53 provided, however, that such local law or ordinance
54 may provide for an
55 additional penalty not in excess of twenty-
56 five dollars for each
57 violation for the failure to respond to a notice of
58 liability within the
59 prescribed time period.
60 (f) An imposition of liability under a local law
61 or ordinance adopted
62 pursuant to this section shall not be deemed a
63 conviction as an operator
64 and shall not be made part of the operating
65 record of the person upon
66 whom such liability is imposed nor shall it be
67 used for insurance
68 purposes in the provision of motor vehicle
69 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
date and time of such
38 violation, together with the other information
contained in the original
39 notice of liability. Failure to send such
information within such thir-
40 ty-seven day time period shall render the owner
liable for the penalty
41 prescribed by this section. Where the lessor
complies with the
42 provisions of this subdivision, the lessee of such
vehicle on the date
43 of such violation shall be deemed to be the
owner of such vehicle for
44 purposes of this section, shall be subject to
liability for the
45 violation of subdivision (d) of section eleven
hundred eleven of this
46 article pursuant to this section and shall be sent
a notice of liability
47 pursuant to subdivision (g) of this section.
48 (k) 1. If the owner liable for a violation of
subdivision (d) of
49 section eleven hundred eleven of this article
pursuant to this section
50 was not the operator of the vehicle at the time of
the violation, the
51 owner may maintain an action for indemnification
against the operator.
52 2. Notwithstanding any other provision of this
section, no owner of a
53 vehicle shall be subject to a monetary fine
imposed pursuant to this
54 section if the operator of such vehicle was
operating such vehicle with-
55 out the consent of the owner at the time such
operator failed to obey a
56 traffic-control indication. For purposes of this
subdivision there shall

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

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

4 to obey a traffic-control indication.

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

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

9 section eleven hundred eleven of this article.

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

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

14 be distributed in accordance with subdivision
15 thirteen of section eigh-

16 teen hundred three of this chapter.

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

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

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

23 toring system to the governor, the temporary
24 president of the senate and

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

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

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

31 limited to:

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

34 violation-monitoring systems were used;

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

37 intersections where a traffic-control signal photo
38 violation-monitoring

39 system is used for the three years preceding the
40 installation of such

41 system, to the extent the information is maintained
42 by the department;

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

26 intersections where a traffic-control signal photo
27 violation-monitoring
28 system is used for the reporting year, as well as
29 for each year that the
30 traffic-control signal photo violation-monitoring
31 system has been opera-
32 tional, to the extent the information is maintained
33 by the department;
34 4. the number of events and number of
35 violations recorded at each
36 intersection where a traffic-control signal photo
37 violation-monitoring
38 system is used and in the aggregate on a daily,
39 weekly and monthly
40 basis;
41 5. the number of notices of liability issued
42 for violations recorded
43 by such system at each intersection where a
44 traffic-control signal photo
45 violation-monitoring system is used;
46 6. the number of fines imposed and total amount
47 of fines paid after
48 first notice of liability;
49 7. the number and percentage of violations
50 adjudicated and results of
51 such adjudications including breakdowns of
52 disposition made for
53 violations recorded by such systems which shall
54 be provided at least
55 annually to such county by the respective courts
56 and bureaus conducting
57 such adjudications;
58 8. the total amount of revenue realized by such
59 county from such adju-
60 dications including a breakdown of revenue
61 realized by such county for
62 each year since deployment of its traffic-control
63 signal photo viola-
64 tion-monitoring system;
65 9. expenses incurred by such county in
66 connection with the program;
67 and
68 10. quality of the adjudication process and its
69 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.