

The Legislature of Rockland County



JAY HOOD, JR.
Legislator – District 3

Chair, Public Safety Committee

AGENDA
PUBLIC SAFETY COMMITTEE
TUESDAY, AUGUST 25, 2015
6:00 PM

ROLL CALL
PLEDGE OF ALLEGIANCE

ADOPTION OF MINUTES, MEETING OF JULY 28, 2015

1. REF. #8024 - APPROVING ACCEPTANCE OF GRANT FUNDS FOR AN ADDITIONAL AMOUNT OF \$14,000 FOR A TOTAL AMOUNT NOT TO EXCEED \$73,400 (NCTD) FROM THE STATE OF NEW YORK GOVERNOR'S TRAFFIC SAFETY COMMITTEE TO BE USED FOR STOP-DWI CRACKDOWN ENFORCEMENT FOR THE PERIOD OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015 AND AUTHORIZING EXECUTION OF ALL NECESSARY GRANT DOCUMENTS BY THE COUNTY EXECUTIVE [STOP-DWI DEPARTMENT] (\$73,400)
(LESLIE CHERNIN, STOP-DWI)
DL# 2015-03348
2. REF. #9252 - APPROVING AN INTERMUNICIPAL COOPERATION AGREEMENT BETWEEN THE COUNTY OF ROCKLAND AND THE COUNTY OF SULLIVAN FOR \$33,000 (NCTD) OF HAZMAT EQUIPMENT FOR ITS USE AS PART OF THE REGIONAL HAZMAT TEAM FOR THE PERIOD SEPTEMBER 1, 2014 THROUGH AUGUST 31, 2016 AND AUTHORIZING ITS EXECUTION BY THE COUNTY EXECUTIVE [FIRE AND EMERGENCY SERVICES] (\$33,000)
(GORDON W. WREN, FIRE AND EMERGENCY)
DL# 2015-03506
3. REF. #9252 - APPROVING AN INTERMUNICIPAL COOPERATION AGREEMENT BETWEEN THE COUNTY OF ROCKLAND AND THE COUNTY OF ORANGE FOR \$33,000 (NCTD) OF HAZMAT EQUIPMENT FOR ITS USE AS PART OF THE REGIONAL HAZMAT TEAM FOR THE PERIOD SEPTEMBER 1, 2014 THROUGH AUGUST 31, 2016 AND AUTHORIZING ITS EXECUTION BY THE COUNTY EXECUTIVE [FIRE AND EMERGENCY SERVICES] (\$33,000)
(GORDON W. WREN, FIRE AND EMERGENCY)
DL# 2015-03383
4. REF. #9252 - APPROVING AN INTERMUNICIPAL COOPERATION AGREEMENT BETWEEN THE COUNTY OF ROCKLAND AND THE COUNTY OF ULSTER FOR \$43,000 (NCTD) OF HAZMAT EQUIPMENT FOR ITS USE AS PART OF THE REGIONAL HAZMAT TEAM FOR THE PERIOD SEPTEMBER 1, 2014 THROUGH AUGUST 31, 2016 AND AUTHORIZING ITS EXECUTION BY THE COUNTY EXECUTIVE [FIRE AND EMERGENCY SERVICES] (\$43,000)
(GORDON W. WREN, FIRE AND EMERGENCY)
DL# 2015-03508

5. REF. #9252 - APPROVING ACCEPTANCE OF GRANT FUNDS IN THE AMOUNT OF \$17,147 (NCTD) FROM THE NEW YORK STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES (DHSES) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS (HMEP) GRANT TO ENHANCE THE COUNTY'S CAPABILITY TO MITIGATE POTENTIAL HAZARDS AND RESPOND TO AND RECOVER FROM EMERGENCIES AND DISASTERS FOR THE PERIOD SEPTEMBER 1, 2014 THROUGH JANUARY 31, 2016 AND AUTHORIZING THE EXECUTION OF ALL NECESSARY GRANT DOCUMENTS BY THE COUNTY EXECUTIVE [OFFICE OF FIRE AND EMERGENCY SERVICES] (\$17,147)
(GORDON W. WREN, FIRE AND EMERGENCY)
DL# 2015-02878
6. REF. #9252 - APPROVING ACCEPTANCE OF GRANT FUNDS IN THE AMOUNT OF \$122,276 (NCTD) FROM THE NEW YORK STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES (DHSES) EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) TO PROVIDE THE COUNTY WITH EMERGENCY PREPAREDNESS ASSISTANCE FOR THE PROTECTION OF LIFE AND PROPERTY FOR THE PERIOD OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2016 AND AUTHORIZING THE EXECUTION OF ALL NECESSARY GRANT DOCUMENTS BY THE COUNTY EXECUTIVE [OFFICE OF FIRE AND EMERGENCY SERVICES] (\$122,276)
(GORDON W. WREN, FIRE AND EMERGENCY)
DL# 2015-02879
7. REF. #9361 - AUTHORIZING AN INTERMUNICIPAL COOPERATION AGREEMENT BETWEEN THE COUNTY OF ROCKLAND AND THE TOWN OF CLARKSTOWN FOR REIMBURSEMENT FOR PORTABLE RADIOLOGICAL DEVICE (PRD) AND PACKEYE TRAINING AS OUTLINED IN THE SECURING THE CITIES INITIATIVE SUPPORTED BY THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, STATE OF NEW YORK AND THE NEW YORK STATE POLICE, FOR THE PERIOD MAY 13, 2014 THROUGH MAY 15, 2014 IN THE TOTAL AMOUNT OF \$6,955.15 AND AUTHORIZING THE EXECUTION BY THE COUNTY EXECUTIVE [SHERIFF'S DEPARTMENT] (\$6,955.15)
(LOUIS FALCO, SHERIFF)
DL# 2015-00693
8. REF. #4124 - REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASSES BILL A.7646, AMENDING THE NYS VEHICLE AND TRAFFIC LAW AND THE NYS PUBLIC OFFICERS LAW TO ALLOW LOCAL AUTHORITIES TO INSTALL AND OPERATE RAILROAD GRADE CROSSING PHOTO-VIOLATION MONITORING DEVICES AT ANY RAILROAD SIGN OR SIGNAL
(HON. RICHARD C. DIAZ, LEGISLATURE)
LG# 2015-89
9. REF. #4817 - REQUESTING THAT THE NEW YORK STATE SENATE PASSES BILL S.3116, AND THAT THE NEW YORK STATE ASSEMBLY PASSES BILL A.3603 TO AMEND SECTION 13.19 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW TO PROVIDE FREE USE OF STATE PARKS AND CAMPSITES FOR VOLUNTEER FIREFIGHTERS AND MEMBERS OF VOLUNTEER AMBULANCE SERVICE
(HON. RICHARD C. DIAZ, LEGISLATURE)
LG# 2015-87

10. REF. #4817 - REQUESTING THAT THE NEW YORK STATE SENATE PASSES BILL S.1781, AND THAT THE NEW YORK STATE ASSEMBLY PASSES BILL A.2383 TO AMEND THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW TO WAIVE HUNTING AND FISHING LICENSE FEES FOR VOLUNTEER FIREFIGHTERS AND MEMBERS OF A VOLUNTEER AMBULANCE SERVICE
(HON. RICHARD C. DIAZ, LEGISLATURE)
LG# 2015-88

11. REF. #9458 - SETTING A DATE FOR A PUBLIC HEARING: A LOCAL LAW AMENDING CHAPTER 340 OF THE LAWS OF ROCKLAND COUNTY
(HON. CHRISTOPHER CAREY, LEGISLATURE)
LG# 2015-27 PH

"The Rockland County Legislature is committed to full compliance with the Americans with Disabilities Act. To that end, the Legislature is committed to creating an accessible environment for all. To request accommodations that you may require, please call Damaris Alvarez at 845-638-5248 (845-708-7899 for TTY/TDD). Please request these accommodations three (3) days in advance so that we can seek to meet your needs."

RESOLVED, That the Legislature of Rockland County hereby approves the acceptance of a STOP-DWI Crackdown Enforcement Grant in the additional amount of \$14,000, for a total amount not to exceed \$73,400 for the period October 1, 2014 through September 30, 2015, and authorizes execution of all necessary grant documents by the County Executive, subject to the approval of the County Attorney; and be it further

RESOLVED, That this grant is funded by the State of New York Governor's Traffic Safety Committee but administered by the New York State STOP-DWI Foundation; and be it further

RESOLVED, That no County tax dollars (NCTD) are required to accept this grant; and be it further

RESOLVED, That the Commissioner of Finance is hereby authorized to increase the following accounts in the amounts indicated:

GENERAL FUND - 2015

Increase Approp. Acct. (Credit):

A-EXE-4250-GX05-E5060	Program Costs	14,000
-----------------------	---------------	--------

Increase Est. Rev. Acct. (Debit):

A-EXE-4250-GX05-R3380	Public Safety Grant(s)	14,000
-----------------------	------------------------	--------

LF:lo
2015-03348
8/4/15

20150804

WHEREAS, The Office of Fire and Emergency Services is recommending that the County enter into an intermunicipal cooperation agreement with the County of Sullivan for the receipt of \$33,000 (NCTD) in HazMat Equipment for its use as part of the Regional HazMat Team for the period from September 1, 2014 through August 31, 2016; and

WHEREAS, The and Committees of the Legislature have met, considered and approved this resolution, now, therefore, be it

RESOLVED, That the Legislature of Rockland County hereby approves the intermunicipal cooperation agreement between the County of Rockland and the County of Sullivan for the County of Sullivan to receive \$33,000 (NCTD) in HazMat Equipment for its use as part of the Regional HazMat Team for the period from September 1, 2014 through August 31, 2016 and authorizes execution of the intermunicipal cooperation agreement by the County Executive, subject to the approval of the County Attorney; and be it further

RESOLVED, That sufficient funding for the purchase of the HazMat Equipment for this agreement is available in Dept. GE03, line E5060; and be it further

RESOLVED, That neither this resolution nor the intermunicipal cooperation agreement hereby approved will require the expenditure of any County funds.

LHG:vma
2015-03506
7/31/15; 8/18/15

WHEREAS, The Office of Fire and Emergency Services is recommending that the County enter into an intermunicipal cooperation agreement with the County of Orange for the receipt of \$33,000 (NCTD) in HazMat Equipment for its use as part of the Regional HazMat Team for the period from September 1, 2014 through August 31, 2016; and

WHEREAS, The _____ and _____ Committees of the Legislature have met, considered and approved this resolution, now, therefore, be it

RESOLVED, That the Legislature of Rockland County hereby approves the intermunicipal cooperation agreement between the County of Rockland and the County of Orange for the County of Orange to receive \$33,000 (NCTD) in HazMat Equipment for its use as part of the Regional HazMat Team for the period from September 1, 2014 through August 31, 2016 and authorizes execution of the intermunicipal cooperation agreement by the County Executive, subject to the approval of the County Attorney; and be it further

RESOLVED, That sufficient funding for the purchase of the HazMat Equipment for this agreement is available in Dept. GE03, line E5060; and be it further

RESOLVED, That neither this resolution nor the intermunicipal cooperation agreement hereby approved will require the expenditure of any County funds.

LHG:vma
2015-03383
7/31/15; 8/18/15

WHEREAS, The Office of Fire and Emergency Services is recommending that the County enter into an intermunicipal cooperation agreement with the County of Ulster for the receipt of \$43,000 (NCTD) in HazMat Equipment for its use as part of the Regional HazMat Team for the period from September 1, 2014 through August 31, 2016; and

WHEREAS, The and Committees of the Legislature have met, considered and approved this resolution, now, therefore, be it

RESOLVED, That the Legislature of Rockland County hereby approves the intermunicipal cooperation agreement between the County of Rockland and the County of Ulster for the County of Ulster to receive \$43,000 (NCTD) in HazMat Equipment for its use as part of the Regional HazMat Team for the period from September 1, 2014 through August 31, 2016 and authorizes execution of the intermunicipal cooperation agreement by the County Executive, subject to the approval of the County Attorney; and be it further

RESOLVED, That sufficient funding for the purchase of the HazMat Equipment for this agreement is available in Dept. GE03, line E5060; and be it further

RESOLVED, That neither this resolution nor the intermunicipal cooperation agreement hereby approved will require the expenditure of any County funds.

LHG:vma
2015-03508
7/31/15; 8/18/15

Introduced by:

Referral No.

DRAFT

**RESOLUTION NO. OF 2015
APPROVING ACCEPTANCE OF GRANT FUNDS
IN THE AMOUNT OF \$17,147 (NCTD)
FROM THE NEW YORK STATE
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES (DHSES)
HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS (HMEP) GRANT
TO ENHANCE THE COUNTY'S CAPABILITY TO
MITIGATE POTENTIAL HAZARDS AND RESPOND
TO AND RECOVER FROM EMERGENCIES AND DISASTERS
FOR THE PERIOD SEPTEMBER 1, 2014 THROUGH JANUARY 31, 2016
AND AUTHORIZING THE EXECUTION OF ALL NECESSARY
GRANT DOCUMENTS BY THE COUNTY EXECUTIVE
[OFFICE OF FIRE AND EMERGENCY SERVICES]
(\$17,147)**

WHEREAS, The Rockland County Office of Fire and Emergency Services has advised the County Executive that the NYS Division of Homeland Security and Emergency Services (DHSES) has awarded their department a \$17,147 Hazardous Materials Emergency Preparedness (HMEP) grant to enhance the County's capability to mitigate potential hazards and respond to and recover from emergencies and disasters for the period September 1, 2014 through January 31, 2016; and

WHEREAS, Funding for this grant is provided by the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) but is administered by the NYS DHSES; and

WHEREAS, It is necessary to appropriate said grant funds to the proper account; and

WHEREAS, No County tax dollars (NCTD) are required to accept said grant funds; and

WHEREAS, The Committees of this Legislature have met, considered and this resolution; now, therefore, be it

RESOLVED, That the Legislature of the County of Rockland hereby approves a \$17,147 Hazardous Materials Emergency Preparedness (HMEP) grant from the NYS Division of Homeland Security and Emergency Services (DHSES) to enhance the County's capability to mitigate potential hazards and respond to and recover from emergencies and disasters for the period September 1, 2014 through January 31, 2016, and hereby authorizes the execution of all necessary grant documents by the County Executive, subject to the approval of the County Attorney; and be it further

RESOLVED, That funding for this grant is provided by the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) but is administered by the NYS DHSES; and be it further

RESOLVED, That no County tax dollars (NCTD) are required to accept said grant funds; and be it further

RESOLVED, That the Commissioner of Finance is hereby authorized to increase the following accounts in the amounts indicated:

GENERAL FUND - 2015

Increase Approp. Acct. (Credit):

A-EME-3644-E5060	Program Costs	17,147
------------------	---------------	--------

Increase Est. Rev. Acct. (Debit)

A-EME-3644-R4389	Public Safety Grant(s)	17,147
------------------	------------------------	--------

MJB:lo
2015-02878
6/26/15

Introduced by:

DRAFT

Referral No.

**RESOLUTION NO. OF 2015
APPROVING ACCEPTANCE OF GRANT FUNDS
IN THE AMOUNT OF \$122,276 (NCTD)
FROM THE NEW YORK STATE
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES (DHSES)
EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG)
TO PROVIDE THE COUNTY WITH EMERGENCY PREPAREDNESS
ASSISTANCE FOR THE PROTECTION OF LIFE AND PROPERTY
FOR THE PERIOD OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2016
AND AUTHORIZING THE EXECUTION OF ALL NECESSARY
GRANT DOCUMENTS BY THE COUNTY EXECUTIVE
[OFFICE OF FIRE AND EMERGENCY SERVICES]
(\$122,276)**

WHEREAS, The Rockland County Office of Fire and Emergency Services has advised the County Executive that the NYS Division of Homeland Security and Emergency Services (DHSES) has awarded their department a \$122,276 Emergency Management Performance Grant (EMPG) to provide the County with emergency preparedness assistance for the protection of life and property for the period October 1, 2014 through September 30, 2016; and

WHEREAS, Funding for this grant is provided by the U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA) but is administered by the NYS DHSES; and

WHEREAS, No County tax dollars (NCTD) are required to accept said grant funds; and

WHEREAS, Revenue for this grant was already estimated in the 2015 Budget of Dept. 3410, line R4389, as well as funding connected to this grant also being appropriated within the 2015 Budget of Dept. 3410 and, therefore, no funding clause is required; and

WHEREAS, The Committees of this Legislature have met,
considered and this resolution; now, therefore, be it

RESOLVED, That the Legislature of the County of Rockland hereby approves a \$122,276 Emergency Management Performance Grant (EMPG) from the NYS Division of Homeland Security and Emergency Services (DHSES) to provide the County with emergency preparedness assistance for the protection of life and property for the period October 1, 2014 through September 30, 2016, and hereby authorizes the execution of all necessary grant documents by the County Executive, subject to the approval of the County Attorney; and be it further

RESOLVED, That funding for this grant is provided by the U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA) but is administered by the NYS DHSES; and be it further

RESOLVED, That no County tax dollars (NCTD) are required to accept said grant funds; and be it further

RESOLVED, That revenue for this grant was already estimated in the 2015 Budget of Dept. 3410, line R4389, as well as funding connected to this grant also being appropriated within the 2015 Budget of Dept. 3410 and, therefore, no funding clause is required.

MJB/LHG:vma
2015-02879
6/26/15

RESOLVED, That the Legislature of Rockland County hereby approves the intermunicipal cooperation agreement between the County of Rockland and the Town of Clarkstown for reimbursement to the Town of Clarkstown Police Department for PRD and Packeye training as outlined in the Securing the Cities agreement dated March 30, 2007, for the period from May 13, 2014 through May 15, 2014 in the total amount of \$6,955.15, and authorizes execution of the intermunicipal agreement by the County Executive; and be it further

RESOLVED, That No County tax dollars (NCTD) are required to reimburse these funds.

RESOLVED, That the Commissioner of Finance is hereby authorized to increase the following accounts in the amounts indicated:

GENERAL FUND - 2015

Increase Approp. Acct. (Credit):

A-SHF-3108-E4920	Reimburse Municipalities	6,956
------------------	--------------------------	-------

Increase Est. Rev. Acct. (Debit):

A-SHF-3108-R2260	Public Safety Revenue - Other Gov'ts	6,956
------------------	--------------------------------------	-------

MB:lo/vma
2015-00693
4/6/15

DRAFT

Introduced by:
Hon. Richard C. Diaz, Sponsor

Referral No. _____
2015

**RESOLUTION NO. _____ OF 2015
REQUESTING THAT THE NEW YORK STATE SENATE PASSES BILL S.1781
AND THAT THE NEW YORK STATE ASSEMBLY PASSES BILL A.2383, TO
AMEND THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW
TO WAIVE HUNTING AND FISHING LICENSE FEES FOR VOLUNTEER
FIREFIGHTERS AND MEMBERS OF A VOLUNTEER AMBULANCE
SERVICE**

WHEREAS, volunteer firefighters and volunteer ambulance personnel perform invaluable services to our community without any compensation; and

WHEREAS, Rockland County depends on its volunteer firefighters and volunteer ambulance personnel to protect the life, health, safety, property and well-being of its citizens; and

WHEREAS, it has been difficult to attract and retain qualified volunteers because of the local heavy tax burden and high cost of living in Rockland County; and

WHEREAS, the cost of becoming a volunteer and remaining active on a volunteer squad, including costs related to training, transportation, and equipment, places an added burden on volunteers, and in addition, volunteers must spend much of any given week training and responding to emergency calls; and

WHEREAS, this cost in time and money has become a great deterrent for recruitment and retention of volunteers, and this has created a critical shortage of volunteer firefighters, volunteer ambulance workers, and volunteer emergency medical personnel in many areas of Rockland County; and

WHEREAS, proposed New York State Bills S.1781 and A.2383 would amend Section 1, Subdivision 2 of Section 11-0715 of the New York State Environmental Conservation Law, as amended by Section 4 of Part R of Chapter 58 of the Laws of 2013, to waive hunting and fishing license fees for volunteer firefighters and volunteer ambulance workers; and

WHEREAS, a waiver of hunting and fishing license fees would assist volunteer firefighters and volunteer ambulance personnel in minimizing expenses, and would serve to recognize their contributions to the health and safety of our citizenry; and

WHEREAS, the _____ Committee of the Legislature has met, considered, and by a _____ vote approved this Resolution; now therefore be it

RESOLVED, that the Legislature of Rockland County hereby requests that the New York State Senate passes Bill S.1781 and that the New York State Assembly passes Bill A.2383, to amend the New York State Environmental Conservation Law to waive hunting and fishing license fees for volunteer firefighters and members of a volunteer ambulance service; and be it further

RESOLVED, that the Clerk to the Legislature be and is hereby authorized and directed to send a copy of this resolution to the Hon. Andrew Cuomo, Governor of the State of New York; Hon. David Carlucci, Hon. William J. Larkin Jr., Members of the New York State Senate; Hon. Kenneth P. Zebrowski, Hon. Ellen C. Jaffee, Hon. James G. Skoufis, and Hon. Karl A. Brabanec, Members of the New York State Assembly; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of the New York State Senate and Assembly; to the Chief of every Fire Company in Rockland County; to the Chief of every Ambulance Corps in Rockland County; and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this Resolution.

JB
LG-2015-88
8/3/15

S01781 Summary:

BILL NO S01781
 SAME AS SAME AS
 SPONSOR LIBOUS
 COSPNSR FUNKE
 MLTSPNSR

Amd S11-0715, En Con L

Provides for the issuance of fishing and hunting licenses, free of charge, to volunteer firefighters and ambulance workers.

S01781 Actions:

BILL NO S01781

01/14/2015 REFERRED TO ENVIRONMENTAL CONSERVATION
 04/21/2015 COMMITTEE DISCHARGED AND COMMITTED TO RULES
 04/21/2015 ORDERED TO THIRD READING CAL.347
 04/22/2015 PASSED SENATE
 04/22/2015 DELIVERED TO ASSEMBLY
 04/22/2015 referred to environmental conservation

S01781 Votes:

There are no votes for this bill in this legislative session.

S01781 Memo:

Memo not available

S01781 Text:

STATE OF NEW YORK

1781

2015-2016 Regular Sessions

I N S E N A T E

January 14, 2015

Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to waiving hunting and fishing license fees for volunteer firefighters and volunteer ambulance workers

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

1 Section 1. Subdivision 2 of section 11-0715 of the environmental
 2 conservation law, as amended by section 4 of part R of chapter 58 of the
 3 laws of 2013, is amended to read as follows:

4 2. A member of the Shinnecock tribe or the Poospatuck tribe or a
 5 member of the six nations, residing on any reservation wholly or partly
 6 within the state, is entitled to receive free of charge a fishing
 7 license, a hunting license, a muzzle-loading privilege, a trapping
 8 license, and a bowhunting privilege; a resident of the state who is a
 9 member of the United States armed forces in active service who is not
 10 stationed within the state and has not been herein longer than thirty
 11 days on leave or furlough, is entitled to receive free of charge a fish-
 12 ing license, a hunting license, and a trapping license; a resident of
 13 the state who is an active member of the organized militia of the state
 14 of New York as defined by section one of the military law, or the
 15 reserve components of the armed forces of the United States, and exclud-
 16 ing members of the inactive national guard and individual ready reserve,
 17 is entitled to receive free of charge a fishing license, a hunting
 18 license, and a trapping license; A VOLUNTEER AMBULANCE WORKER, AS
 19 DEFINED IN SUBDIVISION ONE OF SECTION THREE OF THE VOLUNTEER AMBULANCE
 20 WORKERS' BENEFIT LAW, OR A VOLUNTEER FIREMAN, AS DEFINED IN SUBDIVISION
 21 ONE OF SECTION THREE OF THE VOLUNTEER FIREFIGHTERS' BENEFIT LAW, IS
 22 ENTITLED TO RECEIVE FREE OF CHARGE A FISHING LICENSE, AND A SMALL AND
 23 BIG GAME LICENSE; and a resident who is blind is entitled to receive a
 24 fishing license free of charge. For the purposes of this subdivision a

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

LBD05105-01-5

S. 1781

2

1 person is blind only if either: (a) his or her central visual acuity
 2 does not exceed 20/200 in the better eye with correcting lenses, or (b)
 3 his or her visual acuity is greater than 20/200 but is accompanied by a
 4 limitation of the field of vision such that the widest diameter of the
 5 visual field subtends an angle no greater than 20 degrees.

6 A resident in the state for a period of thirty days immediately prior
 7 to the date of application who has attained the age of seventy is enti-
 8 tled to receive a fishing license, a trapping license, and a hunting
 9 license, at a cost of five dollars for each license.

10 A resident in the state for a period of thirty days immediately prior
 11 to the date of application who has attained the age of seventy is enti-
 12 tled to receive free of charge a bowhunting privilege and a muzzle-load-
 13 ing privilege.

14 S 2. This act shall take effect immediately.

A02383 Summary:

BILL NO A02383
SAME AS SAME AS
SPONSOR Crouch
COSPNSR Brabenec
MLTSPNSR DiPietro, Hawley, Wozniak

Amd S11-0715, En Con L

Provides for the issuance of fishing and hunting licenses, free of charge, to volunteer firefighters and ambulance workers.

A02383 Actions:

BILL NO A02383

01/16/2015 referred to environmental conservation
06/01/2015 held for consideration in environmental conservation

A02383 Votes:

There are no votes for this bill in this legislative session.

A02383 Memo:

BILL NUMBER:A2383

TITLE OF BILL: An act to amend the environmental conservation law, in relation to waiving hunting and fishing license fees for volunteer firefighters and volunteer ambulance workers

PURPOSE OR GENERAL IDEA OF BILL:

To waive hunting and fishing license fees for volunteer firefighters and volunteer ambulance workers.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1. Subdivision 2 of section 11-0715 of the environmental conservation law, as amended by section 4 of part R of chapter 58 of the laws of 2013.

JUSTIFICATION:

This bill would waive the fee for a big and small game hunting license and a fishing license for volunteer firemen, as defined in subdivision one of section three of the firefighters' benefit law and volunteer ambulance workers as defined in subdivision one of section three of the volunteer ambulance workers' benefit law.

Volunteer firefighters and volunteer ambulance workers contribute their time without any compensation and provide a vital service for their communities. For their dedicated service they should receive a free small and big game hunting license and a free fishing license.

This is a small gesture of appreciation for those who risk their lives for the safety of their neighbors.

PRIOR LEGISLATIVE HISTORY:

None.

FISCAL IMPLICATIONS:

Minimal to the State.

EFFECTIVE DATE:

This act shall take effect immediately.

A02383 Text:

STATE OF NEW YORK

2383

2015-2016 Regular Sessions

I N A S S E M B L Y

January 16, 2015

Introduced by M. of A. CROUCH -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to waiving hunting and fishing license fees for volunteer firefighters and volunteer ambulance workers

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

- 1 Section 1. Subdivision 2 of section 11-0715 of the environmental
- 2 conservation law, as amended by section 4 of part R of chapter 58 of the
- 3 laws of 2013, is amended to read as follows:
- 4 2. A member of the Shinnecock tribe or the Poospatuck tribe or a
- 5 member of the six nations, residing on any reservation wholly or partly
- 6 within the state, is entitled to receive free of charge a fishing
- 7 license, a hunting license, a muzzle-loading privilege, a trapping
- 8 license, and a bowhunting privilege; a resident of the state who is a
- 9 member of the United States armed forces in active service who is not
- 10 stationed within the state and has not been herein longer than thirty
- 11 days on leave or furlough, is entitled to receive free of charge a fish-
- 12 ing license, a hunting license, and a trapping license; a resident of
- 13 the state who is an active member of the organized militia of the state
- 14 of New York as defined by section one of the military law, or the
- 15 reserve components of the armed forces of the United States, and exclud-
- 16 ing members of the inactive national guard and individual ready reserve,
- 17 is entitled to receive free of charge a fishing license, a hunting
- 18 license, and a trapping license; A VOLUNTEER AMBULANCE WORKER, AS
- 19 DEFINED IN SUBDIVISION ONE OF SECTION THREE OF THE VOLUNTEER AMBULANCE
- 20 WORKERS' BENEFIT LAW, OR A VOLUNTEER FIREMAN, AS DEFINED IN SUBDIVISION
- 21 ONE OF SECTION THREE OF THE VOLUNTEER FIREFIGHTERS' BENEFIT LAW, IS
- 22 ENTITLED TO RECEIVE FREE OF CHARGE A FISHING LICENSE, AND A SMALL AND
- 23 BIG GAME LICENSE; and a resident who is blind is entitled to receive a

24 fishing license free of charge. For the purposes of this subdivision a

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

LBD05105-01-5

A. 2383

2

1 person is blind only if either: (a) his or her central visual acuity
2 does not exceed 20/200 in the better eye with correcting lenses, or (b)
3 his or her visual acuity is greater than 20/200 but is accompanied by a
4 limitation of the field of vision such that the widest diameter of the
5 visual field subtends an angle no greater than 20 degrees.

6 A resident in the state for a period of thirty days immediately prior
7 to the date of application who has attained the age of seventy is enti-
8 tled to receive a fishing license, a trapping license, and a hunting
9 license, at a cost of five dollars for each license.

10 A resident in the state for a period of thirty days immediately prior
11 to the date of application who has attained the age of seventy is enti-
12 tled to receive free of charge a bowhunting privilege and a muzzle-load-
13 ing privilege.

14 S 2. This act shall take effect immediately.

DRAFT

Introduced by:
Hon. Richard C. Diaz, Sponsor

Referral No. _____, 2015

**RESOLUTION NO. _____ OF 2015
REQUESTING THAT THE NEW YORK STATE SENATE PASSES BILL S.3116
AND THAT THE NEW YORK STATE ASSEMBLY PASSES BILL A.3603, TO
AMEND SECTION 13.19 OF THE PARKS, RECREATION AND HISTORIC
PRESERVATION LAW TO PROVIDE FREE USE OF STATE PARKS AND
CAMPSITES FOR VOLUNTEER FIREFIGHTERS AND MEMBERS OF A
VOLUNTEER AMBULANCE SERVICE**

WHEREAS, volunteer firefighters and volunteer ambulance personnel perform invaluable services to our community without any compensation; and

WHEREAS, Rockland County depends on its volunteer firefighters and volunteer ambulance personnel to protect the life, health, safety, property and well-being of its citizens; and

WHEREAS, it has been difficult to attract and retain qualified volunteers because of the local heavy tax burden and high cost of living in Rockland County; and

WHEREAS, the cost of becoming a volunteer and remaining active on a volunteer squad, including costs related to training, transportation, and equipment, places an added burden on volunteers, and in addition, volunteers must spend much of any given week training and responding to emergency calls; and

WHEREAS, this cost in time and money has become a great deterrent for recruitment and retention of volunteers, and this has created a critical shortage of volunteer firefighters, volunteer ambulance workers, and volunteer emergency medical personnel in many areas of Rockland County; and

WHEREAS, proposed New York State Bills S.3116 in the Senate and A.3603 in the Assembly would amend Section 13.19 of the Parks, Recreation and Historic Preservation law, as amended by chapter 649 of the laws of 1977, to provide for free use of State parks and campsites for volunteer firefighters and volunteer ambulance personnel; and

WHEREAS, said free use of State parks and campsites would assist volunteer firefighters and volunteer ambulance personnel in minimizing expenses, and would serve to recognize their contributions to the health and safety of our citizenry; and

WHEREAS, the _____ Committee of the Legislature has met, considered, and by a _____ vote approved this Resolution; now therefore be it

RESOLVED, that the Legislature of Rockland County hereby requests that the New York State Senate passes Bill S.3116 and that the New York State Assembly passes Bill A.3603 to amend Section 13.19 of the Parks, Recreation and Historic Preservation Law to provide free use of State parks and campsites for volunteer firefighters and members of a volunteer ambulance service; and be it further

RESOLVED, that the Clerk to the Legislature be and is hereby authorized and directed to send a copy of this resolution to the Hon. Andrew Cuomo, Governor of the State of New York; Hon. David Carlucci, Hon. William J. Larkin Jr., Members of the New York State Senate; Hon. Kenneth P. Zebrowski, Hon. Ellen C. Jaffee, Hon. James G. Skoufis, and Hon. Karl A. Brabanec, Members of the New York State Assembly; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of the New York State Senate and Assembly; to the Chief of every Fire Company in Rockland County; to the Chief of every Ambulance Corps in Rockland County; and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this Resolution.

JB
LG-2015-87
8/3/15

S03116 Summary:

BILL NO S03116
 SAME AS SAME AS
 SPONSOR ORTT
 COSPNSR FUNKE
 MLTSPNSR

Amd S13.19, Pks & Rec L

Provides free use of state parks and campsites for volunteer firefighters and members of a volunteer ambulance service.

S03116 Actions:

BILL NO S03116

02/02/2015 REFERRED TO CULTURAL AFFAIRS, TOURISM, PARKS AND RECREATION

S03116 Votes:

There are no votes for this bill in this legislative session.

S03116 Memo:

Memo not available

S03116 Text:

STATE OF NEW YORK

3116

2015-2016 Regular Sessions

I N S E N A T E

February 2, 2015

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation

AN ACT to amend the parks, recreation and historic preservation law, in relation to providing free use of state parks for volunteer firefighters and volunteer ambulance personnel

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

- 1 Section 1. Section 13.19 of the parks, recreation and historic preservation law, as amended by chapter 649 of the laws of 1977, is amended to
- 2 read as follows:
- 3

4 S 13.19 Free use of PARKS AND campsites. Notwithstanding the
5 provisions of any other law, any person who is blind, non-ambulatory, or
6 an amputee or any veteran of the wars of the United States, who has at
7 any time been awarded by the federal government an allowance towards the
8 purchase of an automobile or is eligible for such an award; OR ANY
9 PERSON WHO IS A RESIDENT OF NEW YORK STATE AND SERVES AS AN ACTIVE
10 VOLUNTEER FIREFIGHTER, AS DEFINED IN SECTION TWO HUNDRED FIFTEEN OF THE
11 GENERAL MUNICIPAL LAW, OR AS AN ENROLLED MEMBER OF A VOLUNTEER AMBULANCE
12 SERVICE PURSUANT TO ARTICLE THIRTY OF THE PUBLIC HEALTH LAW shall be
13 permitted to use any of the public campsites, parks and other public
14 places of recreation in this state, upon the same terms and conditions
15 as apply to the general public, but without the payment of any fees or
16 other charges for the use of such campsites, parks and other public
17 places of recreation.

18 S 2. This act shall take effect on the one hundred twentieth day after
19 it shall have become a law; provided, however, that effective immediate-
20 ly, the addition, amendment and/or repeal of any rule or regulation
21 necessary for the implementation of this act on its effective date is
22 authorized and directed to be made and completed on or before such
23 effective date.

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

LBD02029-01-5

A03603 Summary:

BILL NO A03603
 SAME AS SAME AS
 SPONSOR Ceretto
 COSPNSR Raia, Graf, DiPietro
 MLTSPNSR Brabenec, Tenney

Amd S13.19, Pks & Rec L

Provides free use of state parks and campsites for volunteer firefighters and members of a volunteer ambulance service.

A03603 Actions:

BILL NO A03603

01/27/2015 referred to tourism, parks, arts and sports development

A03603 Votes:

There are no votes for this bill in this legislative session.

A03603 Memo:

BILL NUMBER:A3603

TITLE OF BILL:

An act to amend the parks, recreation and historic preservation law, in relation to providing free use of state parks for volunteer firefighters and volunteer ambulance personnel

PURPOSE OR GENERAL IDEA OF BILL:

To provide free use of state parks and campsites for volunteer firefighters and members of a volunteer ambulance service.

SUMMARY OF SPECIFIC PROVISIONS:

Section 13-19 of the Parks, Recreation and Historic Preservation Law, as amended by Chapter 649 of the Laws of 1977; is amended by adding free use of parks and campsites; or any person who is a resident of New York State and serves as an active volunteer firefighter, as defined in section two hundred fifteen of the general municipal law, or as an enrolled member of a volunteer ambulance service pursuant to article thirty of the public health law

JUSTIFICATION:

To encourage and reward individuals to become volunteer firefighters and volunteer ambulance personnel by giving them free use of state parks and campgrounds.

PRIOR LEGISLATIVE HISTORY:

2014 - A6944

FISCAL IMPLICATIONS:

None

EFFECTIVE DATE:

This act shall take effect on the one hundred twentieth day after it shall have become a law.

A03603 Text:

STATE OF NEW YORK

3603

2015-2016 Regular Sessions

IN ASSEMBLY

January 27, 2015

Introduced by M. of A. CERETTO -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the parks, recreation and historic preservation law, in relation to providing free use of state parks for volunteer firefighters and volunteer ambulance personnel

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

1 Section 1. Section 13.19 of the parks, recreation and historic preservation law, as amended by chapter 649 of the laws of 1977, is amended to
2 read as follows:
3

4 S 13.19 Free use of PARKS AND campsites. Notwithstanding the
5 provisions of any other law, any person who is blind, non-ambulatory, or
6 an amputee or any veteran of the wars of the United States, who has at
7 any time been awarded by the federal government an allowance towards the
8 purchase of an automobile or is eligible for such an award; OR ANY
9 PERSON WHO IS A RESIDENT OF NEW YORK STATE AND SERVES AS AN ACTIVE
10 VOLUNTEER FIREFIGHTER, AS DEFINED IN SECTION TWO HUNDRED FIFTEEN OF THE
11 GENERAL MUNICIPAL LAW, OR AS AN ENROLLED MEMBER OF A VOLUNTEER AMBULANCE
12 SERVICE PURSUANT TO ARTICLE THIRTY OF THE PUBLIC HEALTH LAW shall be
13 permitted to use any of the public campsites, parks and other public
14 places of recreation in this state, upon the same terms and conditions
15 as apply to the general public, but without the payment of any fees or
16 other charges for the use of such campsites, parks and other public
17 places of recreation.

18 S 2. This act shall take effect on the one hundred twentieth day after
19 it shall have become a law; provided, however, that effective immediately,
20 the addition, amendment and/or repeal of any rule or regulation
21 necessary for the implementation of this act on its effective date is
22 authorized and directed to be made and completed on or before such
23 effective date.

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

DRAFT

Introduced by:
Hon. Richard C. Diaz, Sponsor

Referral No. _____, 2015

**RESOLUTION NO. _____ OF 2015
REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASSES BILL
A.7646, AMENDING THE NYS VEHICLE AND TRAFFIC LAW AND THE NYS
PUBLIC OFFICERS LAW TO ALLOW LOCAL AUTHORITIES TO INSTALL
AND OPERATE RAILROAD GRADE CROSSING PHOTO-VIOLATION
MONITORING DEVICES AT ANY RAILROAD SIGN OR SIGNAL**

WHEREAS, traffic safety at railroad grade crossings continues to be a major concern among the citizens of Rockland County; and

WHEREAS, existing New York State law precludes municipalities from unilaterally installing traffic cameras at grade crossings; and

WHEREAS, traffic cameras at railroad crossings will assist in ensuring compliance with railroad crossing safety laws and help to prevent tragic railway accidents;

WHEREAS, The New York State Senate passed Bill S.5238 in June of 2015, which amends the Vehicle and Traffic Law by adding a new section 1170-a, to authorize local authorities to establish and implement grade crossing monitoring systems by means of photo-violation monitoring devices; and

WHEREAS, the said proposed law does not create a mandate for local municipalities, but provides them with the option to install such systems in the event they so choose; and

WHEREAS, the proposed law will improve safety for railroad transport and for automobile and railroad passengers; and

WHEREAS, the proposed law will authorize the use of photo-violation monitoring systems that, to the extent practicable, do not produce images that identify drivers, passengers, or contents of a vehicle, thereby maintaining privacy for citizens; and

WHEREAS, the proposed law will amend the Public Officers Law at Section 87(2) to provide that photographs, microphotographs, videotapes or other recorded images prepared by the railroad grade crossing photo violation-monitoring systems may not be subject to Freedom of Information Law requests, thereby further maintaining confidentiality and privacy; and

WHEREAS, the _____ Committee of the Legislature has met, considered, and by a _____ vote approved this Resolution; now therefore be it

RESOLVED, that the Legislature of Rockland County hereby requests that the New York State Assembly passes Bill A.7646, amending the NYS Vehicle and Traffic Law and the NYS Public Officers Law to allow local authorities to install and operate railroad grade crossing photo-violation monitoring devices at any railroad sign or signal; and be it further

RESOLVED, that the Clerk to the Legislature be and is hereby authorized and directed to send a copy of this resolution to the Hon. Andrew Cuomo, Governor of the State of New York; Hon. Kenneth P. Zebrowski, Hon. Ellen C. Jaffee, Hon. James G. Skoufis, and Hon. Karl A. Brabanec, Members of the New York State Assembly; the Speaker of the New York State Assembly; the Majority and Minority Leaders of the New York State Assembly; and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this Resolution.

JB

LG-2015-89

8/3/15

8/7/15

S05238 Summary:

BILL NO S05238
 SAME AS SAME AS
 SPONSOR MURPHY
 COSPNSR CARLUCCI, LARKIN
 MLTSPNSR

Add SS135-a & 1170-a, V & T L; amd S87, Pub Off L

Authorizes local authorities to establish owner liability for failure of an operator of a motor vehicle to obey a signal indicating the approach of a train utilizing photo monitoring devices.

S05238 Actions:

BILL NO S05238
 05/08/2015 REFERRED TO TRANSPORTATION
 06/09/2015 REPORTED AND COMMITTED TO RULES
 06/18/2015 ORDERED TO THIRD READING CAL.1828
 06/18/2015 PASSED SENATE
 06/18/2015 DELIVERED TO ASSEMBLY
 06/18/2015 referred to transportation

S05238 Votes:

There are no votes for this bill in this legislative session.

S05238 Memo:

Memo not available

S05238 Text:

STATE OF NEW YORK

5238

2015-2016 Regular Sessions

I N S E N A T E

May 8, 2015

Introduced by Sen. MURPHY -- 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 authorizing local authorities to establish demonstration programs, implementing railroad grade crossing monitoring systems by means of photo devices

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 135-a to read as follows:

3 S 135-A. RAILROAD GRADE CROSSING. A LOCATION WHERE RAILROAD TRACKS
4 INTERSECT A PUBLIC OR PRIVATE HIGHWAY, ROADWAY OR SIDEWALK.

5 S 2. The vehicle and traffic law is amended by adding a new section
6 1170-a to read as follows:

7 S 1170-A. OWNER LIABILITY FOR FAILURE OF OPERATOR TO OBEY SIGNAL INDI-
8 CATING APPROACH OF TRAIN. (A) 1. NOTWITHSTANDING ANY OTHER PROVISION OF
9 LAW, ANY LOCAL AUTHORITY IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND
10 AMEND A LOCAL LAW, ORDINANCE OR RESOLUTION ESTABLISHING A DEMONSTRATION
11 PROGRAM IMPOSING MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAIL-
12 URE OF AN OPERATOR THEREOF TO COMPLY WITH SECTION ELEVEN HUNDRED SEVENTY
13 OF THIS ARTICLE. SUCH DEMONSTRATION PROGRAM SHALL EMPOWER A LOCAL
14 AUTHORITY TO INSTALL AND OPERATE RAILROAD GRADE CROSSING PHOTO VIOLA-
15 TION-MONITORING DEVICES AT ANY RAILROAD SIGN OR SIGNAL.

16 2. SUCH DEMONSTRATION PROGRAM SHALL UTILIZE NECESSARY TECHNOLOGIES TO
17 ENSURE, TO THE EXTENT PRACTICABLE, THAT PHOTOGRAPHS PRODUCED BY SUCH
18 RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING SYSTEMS SHALL NOT
19 INCLUDE IMAGES THAT IDENTIFY THE DRIVER, THE PASSENGERS OR THE CONTENTS
20 OF THE VEHICLE. PROVIDED, HOWEVER, THAT NO NOTICE OF LIABILITY ISSUED
21 PURSUANT TO THIS SECTION SHALL BE DISMISSED SOLELY BECAUSE A PHOTOGRAPH
22 OR PHOTOGRAPHS ALLOW FOR THE IDENTIFICATION OF THE CONTENTS OF A VEHI-

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

LBD10847-02-5

S. 5238

2

1 CLE, PROVIDED THAT SUCH LOCAL AUTHORITY HAS MADE A REASONABLE EFFORT TO
2 COMPLY WITH THE PROVISIONS OF THIS PARAGRAPH.

3 (B) WITHIN THE JURISDICTION OF ANY SUCH LOCAL AUTHORITY WHICH HAS
4 ADOPTED A LOCAL LAW, ORDINANCE OR RESOLUTION PURSUANT TO SUBDIVISION (A)
5 OF THIS SECTION, THE OWNER OF A VEHICLE SHALL BE LIABLE FOR A PENALTY
6 IMPOSED PURSUANT TO THIS SECTION IF SUCH VEHICLE WAS USED OR OPERATED
7 WITH THE PERMISSION OF THE OWNER, EXPRESS OR IMPLIED, IN VIOLATION OF
8 SECTION ELEVEN HUNDRED SEVENTY OF THIS ARTICLE, AND SUCH VIOLATION IS
9 EVIDENCED BY INFORMATION OBTAINED FROM A RAILROAD GRADE CROSSING PHOTO
10 VIOLATION-MONITORING SYSTEM; PROVIDED, HOWEVER, THAT NO OWNER OF A VEHI-
11 CLE SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION WHERE
12 THE OPERATOR OF SUCH VEHICLE HAS BEEN CONVICTED OF THE UNDERLYING
13 VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY OF THIS ARTICLE.

14 (C) FOR PURPOSES OF THIS SECTION, "OWNER" SHALL HAVE THE MEANING
15 PROVIDED IN ARTICLE TWO-B OF THIS CHAPTER. FOR PURPOSES OF THIS SECTION,
16 "RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING SYSTEM" SHALL MEAN A
17 VEHICLE SENSOR INSTALLED TO WORK IN CONJUNCTION WITH A RAILROAD SIGN OR
18 SIGNAL WHICH AUTOMATICALLY PRODUCES TWO OR MORE PHOTOGRAPHS, TWO OR MORE
19 MICROPHOTOGRAPHS, A VIDEOTAPE OR OTHER RECORDED IMAGES OF EACH VEHICLE
20 AT THE TIME IT IS USED OR OPERATED IN VIOLATION OF SECTION ELEVEN
21 HUNDRED SEVENTY OF THIS ARTICLE.

22 (D) A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY
23 THE LOCAL AUTHORITY IN WHICH THE CHARGED VIOLATION OCCURRED, OR A
24 FACSIMILE THEREOF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTO-
25 GRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PRODUCED BY A RAILROAD GRADE
26 CROSSING PHOTO VIOLATION-MONITORING SYSTEM, SHALL BE PRIMA FACIE
27 EVIDENCE OF THE FACTS CONTAINED THEREIN. ANY PHOTOGRAPHS, MICROPHOTO-
28 GRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES EVIDENCING SUCH A VIOLATION
29 SHALL BE AVAILABLE FOR INSPECTION IN ANY PROCEEDING TO ADJUDICATE THE
30 LIABILITY FOR SUCH VIOLATION PURSUANT TO A LOCAL LAW, ORDINANCE OR
31 RESOLUTION ADOPTED PURSUANT TO THIS SECTION.

32 (E) AN OWNER LIABLE FOR A VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY
33 OF THIS ARTICLE PURSUANT TO A LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED
34 PURSUANT TO THIS SECTION SHALL BE LIABLE FOR MONETARY PENALTIES IN
35 ACCORDANCE WITH A SCHEDULE OF FINES AND PENALTIES TO BE ESTABLISHED IN
36 SUCH LOCAL LAW, ORDINANCE OR RESOLUTION. THE LIABILITY OF THE OWNER
37 PURSUANT TO THIS SECTION SHALL NOT EXCEED ONE HUNDRED DOLLARS FOR EACH
38 VIOLATION; PROVIDED, HOWEVER, THAT AN ADJUDICATING AUTHORITY MAY PROVIDE
39 FOR AN ADDITIONAL PENALTY OF NOT IN EXCESS OF TWENTY-FIVE DOLLARS FOR
40 EACH VIOLATION FOR THE FAILURE TO RESPOND TO A NOTICE OF LIABILITY WITH-
41 IN THE PRESCRIBED PERIOD OF TIME.

42 (F) AN IMPOSITION OF LIABILITY UNDER A LOCAL LAW, ORDINANCE OR RESOL-
43 UTION ADOPTED PURSUANT TO THIS SECTION SHALL NOT BE DEEMED A CONVICTION
44 AS AN OPERATOR AND SHALL NOT BE MADE PART OF THE OPERATING RECORD OF THE
45 PERSON UPON WHOM SUCH LIABILITY IS IMPOSED NOR SHALL IT BE USED FOR
46 INSURANCE PURPOSES IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

47 (G) 1. A NOTICE OF LIABILITY SHALL BE SENT BY FIRST CLASS MAIL TO EACH
48 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF SECTION ELEV-
49 EN HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION. PERSONAL
50 DELIVERY ON THE OWNER SHALL NOT BE REQUIRED. A MANUAL OR AUTOMATIC
51 RECORD OF MAILING PREPARED IN THE ORDINARY COURSE OF BUSINESS SHALL BE
52 PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

53 2. A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE
54 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF SECTION ELEV-
55 EN HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION, THE REGIS-
56 TRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH VIOLATION, THE LOCATION
S. 5238

3

1 WHERE SUCH VIOLATION TOOK PLACE, THE DATE AND TIME OF SUCH VIOLATION AND
2 THE IDENTIFICATION NUMBER OF THE CAMERA WHICH RECORDED THE VIOLATION OR
3 OTHER DOCUMENT LOCATOR NUMBER.

4 3. THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE
5 PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST
6 THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO
7 CONTAIN A WARNING TO ADVISE THE PERSON CHARGED THAT FAILURE TO CONTEST
8 IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABIL-
9 ITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.

10 4. THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY THE LOCAL
11 AUTHORITY, OR BY ANY OTHER ENTITY AUTHORIZED BY SUCH LOCAL AUTHORITY TO
12 PREPARE AND MAIL SUCH NOTIFICATION OF VIOLATION.

13 (H) ADJUDICATION OF THE LIABILITY IMPOSED UPON OWNERS BY THIS SECTION
14 SHALL BE BY THE COURT HAVING JURISDICTION OVER TRAFFIC INFRACTIONS,
15 EXCEPT THAT IF SUCH LOCAL AUTHORITY HAS ESTABLISHED AN ADMINISTRATIVE
16 TRIBUNAL TO HEAR AND DETERMINE COMPLAINTS OF TRAFFIC INFRACTIONS CONSTI-
17 TUTING PARKING, STANDING OR STOPPING VIOLATIONS SUCH LOCAL AUTHORITY
18 MAY, BY LOCAL LAW, AUTHORIZE SUCH ADJUDICATION BY SUCH TRIBUNAL.

19 (I) IF AN OWNER RECEIVES A NOTICE OF LIABILITY PURSUANT TO THIS
20 SECTION FOR ANY TIME PERIOD DURING WHICH THE VEHICLE WAS REPORTED TO A
21 LAW ENFORCEMENT AGENCY AS HAVING BEEN STOLEN, IT SHALL BE A VALID
22 DEFENSE TO AN ALLEGATION OF LIABILITY FOR A VIOLATION OF SECTION ELEVEN
23 HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION THAT THE VEHI-
24 CLE HAD BEEN REPORTED TO THE POLICE AS STOLEN PRIOR TO THE TIME THE
25 VIOLATION OCCURRED AND HAD NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES
26 OF ASSERTING THE DEFENSE PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFI-
27 CIENT THAT A CERTIFIED COPY OF A POLICE REPORT ON THE STOLEN VEHICLE BE
28 SENT BY FIRST CLASS MAIL TO THE COURT HAVING JURISDICTION OR PARKING
29 VIOLATIONS BUREAU.

30 (J) 1. IN SUCH LOCAL AUTHORITY WHERE THE ADJUDICATION OF LIABILITY
31 IMPOSED UPON OWNERS PURSUANT TO THIS SECTION IS BY A COURT HAVING JURIS-
32 DICTION, AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF
33 LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION (G) OF THIS SECTION SHALL
34 NOT BE LIABLE FOR THE VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY OF
35 THIS ARTICLE, PROVIDED THAT HE OR SHE SENDS TO THE COURT HAVING JURIS-

36 DICTION A COPY OF THE RENTAL, LEASE OR OTHER SUCH CONTRACT DOCUMENT
 37 COVERING SUCH VEHICLE ON THE DATE OF THE VIOLATION, WITH THE NAME AND
 38 ADDRESS OF THE LESSEE CLEARLY LEGIBLE, WITHIN THIRTY-SEVEN DAYS AFTER
 39 RECEIVING NOTICE FROM THE COURT OF THE DATE AND TIME OF SUCH VIOLATION,
 40 TOGETHER WITH THE OTHER INFORMATION CONTAINED IN THE ORIGINAL NOTICE OF
 41 LIABILITY. FAILURE TO SEND SUCH INFORMATION WITHIN SUCH THIRTY-SEVEN
 42 DAY TIME PERIOD SHALL RENDER THE OWNER LIABLE FOR THE PENALTY PRESCRIBED
 43 BY THIS SECTION. WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF THIS
 44 PARAGRAPH, THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH VIOLATION
 45 SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES OF THIS
 46 SECTION, SHALL BE SUBJECT TO LIABILITY FOR THE VIOLATION OF SECTION
 47 ELEVEN HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION AND
 48 SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO SUBDIVISION (G) OF THIS
 49 SECTION.

50 2. (I) IN SUCH LOCAL AUTHORITY WHICH HAS AUTHORIZED THE ADJUDICATION
 51 OF LIABILITY IMPOSED UPON OWNERS BY THIS SECTION BY A PARKING VIOLATIONS
 52 BUREAU, AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF
 53 LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION (G) OF THIS SECTION SHALL
 54 NOT BE LIABLE FOR THE VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY OF
 55 THIS ARTICLE, PROVIDED THAT:

S. 5238

4

1 (A) PRIOR TO THE VIOLATION, THE LESSOR HAS FILED WITH THE BUREAU IN
 2 ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED THIRTY-NINE OF
 3 THIS CHAPTER; AND

4 (B) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM THE BUREAU OF
 5 THE DATE AND TIME OF A LIABILITY, TOGETHER WITH THE OTHER INFORMATION
 6 CONTAINED IN THE ORIGINAL NOTICE OF LIABILITY, THE LESSOR SUBMITS TO THE
 7 BUREAU THE CORRECT NAME AND ADDRESS OF THE LESSEE OF THE VEHICLE IDENTI-
 8 FIED IN THE NOTICE OF LIABILITY AT THE TIME OF SUCH VIOLATION, TOGETHER
 9 WITH SUCH OTHER ADDITIONAL INFORMATION CONTAINED IN THE RENTAL, LEASE OR
 10 OTHER CONTRACT DOCUMENT, AS MAY BE REASONABLY REQUIRED BY THE BUREAU
 11 PURSUANT TO REGULATIONS THAT MAY BE PROMULGATED FOR SUCH PURPOSE.

12 (II) FAILURE TO COMPLY WITH CLAUSE (B) OF SUBPARAGRAPH (I) OF THIS
 13 PARAGRAPH SHALL RENDER THE OWNER LIABLE FOR THE PENALTY PRESCRIBED IN
 14 THIS SECTION.

15 (III) WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF THIS PARAGRAPH,
 16 THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH VIOLATION SHALL BE DEEMED
 17 TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES OF THIS SECTION, SHALL BE
 18 SUBJECT TO LIABILITY FOR SUCH VIOLATION PURSUANT TO THIS SECTION AND
 19 SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO SUBDIVISION (G) OF THIS
 20 SECTION.

21 (K) 1. IF THE OWNER LIABLE FOR A VIOLATION OF SECTION ELEVEN HUNDRED
 22 SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION WAS NOT THE OPERATOR OF
 23 THE VEHICLE AT THE TIME OF THE VIOLATION, THE OWNER MAY MAINTAIN AN
 24 ACTION FOR INDEMNIFICATION AGAINST THE OPERATOR.

25 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO OWNER OF A
 26 VEHICLE SHALL BE SUBJECT TO A MONETARY FINE IMPOSED PURSUANT TO THIS
 27 SECTION IF THE OPERATOR OF SUCH VEHICLE WAS OPERATING SUCH VEHICLE WITH-
 28 OUT THE CONSENT OF THE OWNER AT THE TIME SUCH OPERATOR FAILED TO OBEY A
 29 RAILROAD SIGN OR SIGNAL INDICATING THE APPROACH OF A TRAIN. FOR
 30 PURPOSES OF THIS SUBDIVISION THERE SHALL BE A PRESUMPTION THAT THE OPER-
 31 ATOR OF SUCH VEHICLE WAS OPERATING SUCH VEHICLE WITH THE CONSENT OF THE
 32 OWNER AT THE TIME SUCH OPERATOR FAILED TO OBEY A RAILROAD SIGN OR SIGNAL
 33 INDICATING THE APPROACH OF A TRAIN.

34 (L) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE LIABILITY
 35 OF AN OPERATOR OF A VEHICLE FOR ANY VIOLATION OF SECTION ELEVEN HUNDRED
 36 SEVENTY OF THIS ARTICLE.

37 (M) IN ANY SUCH LOCAL AUTHORITY WHICH ADOPTS A DEMONSTRATION PROGRAM
 38 PURSUANT TO SUBDIVISION (A) OF THIS SECTION, SUCH LOCAL AUTHORITY SHALL
 39 SUBMIT AN ANNUAL REPORT ON THE RESULTS OF THE USE OF A RAILROAD GRADE
 40 CROSSING PHOTO VIOLATION-MONITORING SYSTEM TO THE GOVERNOR, THE TEMPO-

41 RARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON OR
42 BEFORE JUNE FIRST, TWO THOUSAND SEVENTEEN AND ON THE SAME DATE IN EACH
43 SUCCEEDING YEAR IN WHICH THE DEMONSTRATION PROGRAM IS OPERABLE. SUCH
44 REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO:

45 1. A DESCRIPTION OF THE LOCATIONS WHERE RAILROAD GRADE CROSSING PHOTO
46 VIOLATION-MONITORING SYSTEMS WERE USED;

47 2. THE AGGREGATE NUMBER, TYPE AND SEVERITY OF ACCIDENTS REPORTED AT
48 INTERSECTIONS WHERE A RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING
49 SYSTEM IS USED FOR THE YEAR PRECEDING THE INSTALLATION OF SUCH SYSTEM,
50 TO THE EXTENT THE INFORMATION IS MAINTAINED BY THE DEPARTMENT;

51 3. THE AGGREGATE NUMBER, TYPE AND SEVERITY OF ACCIDENTS REPORTED AT
52 INTERSECTIONS WHERE A RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING
53 SYSTEM IS USED, TO THE EXTENT THE INFORMATION IS MAINTAINED BY THE
54 DEPARTMENT;

S. 5238

5

1 4. THE NUMBER OF VIOLATIONS RECORDED AT EACH INTERSECTION WHERE A
2 RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING SYSTEM IS USED AND IN
3 THE AGGREGATE ON A DAILY, WEEKLY AND MONTHLY BASIS;

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

6 6. THE NUMBER OF FINES AND TOTAL AMOUNT OF FINES PAID AFTER FIRST
7 NOTICE OF LIABILITY ISSUED FOR VIOLATIONS RECORDED BY SUCH SYSTEMS;

8 7. THE NUMBER OF VIOLATIONS ADJUDICATED AND RESULTS OF SUCH ADJUDI-
9 CATIONS INCLUDING BREAKDOWNS OF DISPOSITIONS MADE FOR VIOLATIONS
10 RECORDED BY SUCH SYSTEMS;

11 8. THE TOTAL AMOUNT OF REVENUE REALIZED BY SUCH LOCAL AUTHORITY FROM
12 SUCH ADJUDICATIONS;

13 9. EXPENSES INCURRED BY SUCH LOCAL AUTHORITY IN CONNECTION WITH THE
14 PROGRAM; AND

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

16 (N) IT SHALL BE A DEFENSE TO ANY PROSECUTION FOR A VIOLATION OF
17 SECTION ELEVEN HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO A LOCAL LAW
18 OR ORDINANCE ADOPTED PURSUANT TO THIS SECTION THAT THE RAILROAD SIGNAL
19 INDICATIONS WERE MALFUNCTIONING AT THE TIME OF THE ALLEGED VIOLATION.

20 S 3. Subdivision 2 of section 87 of the public officers law is amended
21 by adding a new paragraph (o) to read as follows:

22 (O) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED
23 IMAGES PREPARED UNDER THE AUTHORITY OF SECTION ELEVEN HUNDRED SEVENTY-A
24 OF THE VEHICLE AND TRAFFIC LAW.

25 S 4. This act shall take effect on the thirtieth day after it shall
26 have become a law.

A07646 Summary:

BILL NO A07646
 SAME AS SAME AS
 SPONSOR Abinanti
 COSPNSR
 MLTSPNSR

Add SS135-a & 1170-a, V & T L; amd S87, Pub Off L

Authorizes local authorities to establish owner liability for failure of an operator of a motor vehicle to obey a signal indicating the approach of a train utilizing photo monitoring devices.

A07646 Actions:

BILL NO A07646

05/21/2015 referred to transportation

A07646 Votes:

There are no votes for this bill in this legislative session.

A07646 Memo:

BILL NUMBER:A7646

TITLE OF BILL: An act to amend the vehicle and traffic law and the public officers law, in relation to authorizing local authorities to establish demonstration programs, implementing railroad grade crossing monitoring systems by means of photo devices

PURPOSE OR GENERAL IDEA OF BILL:

This bill would allow any local authority to adopt a local law to implement a program to install and operate railroad grade crossing photo violation-monitoring devices at any railroad sign or signal.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 of the bill amends the vehicle and traffic law by adding a new section 135-a to define railroad grade crossing as a location where railroad tracks intersect a public or private highway, roadway or sidewalk.

Section two amends the vehicle and traffic law by adding a new section 1170-a to authorize any local authority by local law, ordinance or resolution to establish a demonstration program to install and operate railroad grade crossing photo violation-monitoring devices at any railroad sign or signal and impose monetary liability on the owner of a vehicle for failure of an operator to comply with section 1170 of this article regarding obedience to a signal indicating approach of train. Liability of the owner shall not exceed one hundred dollars for each violation; however, the adjudicating authority may provide for an

additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed period of time.

Such demonstration program will utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such railroad grade crossing photo violation-monitoring systems shall not include images that identify the driver, the passengers or the contents of the vehicle.

Furthermore, notices of liability are not deemed a conviction as an operator, so they would not result in points on the owner's driver license, nor are they used for motor vehicle insurance purposes. The bill specifies the procedure to provide notice of liability to the owner of the vehicle, as well as the information required in the notice.

It shall be a defense to liability that the vehicle was reported to police as stolen prior to the time the violation occurred, and that the railroad signal indications were malfunctioning at the time of the alleged violation.

Additionally, any local authority that adopts a demonstration program must submit an annual report on the results of the use of a railroad grade crossing photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June 1, 2017, and on the same date in each succeeding year the program is operable. The report must include, but is not limited

to, a description of the locations where railroad grade crossing photo violation-monitoring systems are used; the number, type and severity of accidents reported at intersections where a railroad grade crossing photo violation-monitoring system is used for the year preceding the installation of the system; the number, type and severity of accidents reported at the intersections where a railroad grade crossing photo violation-monitoring system is used; the number of violations recorded at each intersection where a railroad grade crossing photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis; the total number of notices of liability issued for violations recorded by the system; the number of fines and total amount of fines paid after the first notice of liability issued for violations recorded by such system; the number of violations adjudicated and the result of such adjudications including breakdowns of dispositions made for violations recorded by such systems; the total amount of revenue realized by such local authority from such adjudications; expenses incurred by such local authority in connection with the program; and quality of the adjudication process and its results.

Section three amends public officers law section 87 (2) by adding a new paragraph (o) to provide that photographs, microphotographs, videotapes or other recorded images prepared by the railroad grade crossing photo violation-monitoring system may not subject to Freedom of Information Law requests.

Section 4 is the effective date.

JUSTIFICATION:

According to Federal Railroad Administration data, accidents at railroad grade crossings have decreased over the past decade, except

in New York State. Federal data documents that from 2004-2014 there have been 371 collisions resulting in 63 deaths and 137 injuries. In 2013 alone there were a total of 28 accidents on the state's three most prominent commuter rail lines. It has become increasingly apparent that there is a substantial need for increased safety measures at railroad grade crossings in the state.

In February of 2015, a northbound Metro-North Railroad passenger train collided with a sports utility vehicle stopped on the tracks. This tragic accident resulted in the deaths of five passengers and the vehicle's driver. Additionally, on May 4, 2015, a school bus at the Roaring Brook Road railroad crossing in Westchester County stopped only inches from the tracks leaving just enough clearance from the passing train to avoid an accident; however, the driver failed to leave enough room for the lowering gate causing the bus to become trapped. Since March 2014, there were thirty-eight tickets issued at this specific crossing for driving violations. These situations bring much needed attention to the fact that drivers are failing to comply with safety laws at railroad grade crossings.

The presence of warning devices such as flashing lights, signs and gates have helped to reduce the number of accidents, but have failed to adequately deter drivers from disobeying these crucial safety measures.

This legislation would aid in the effort to decrease the number of vehicular accidents at railroad grade crossings by providing a mechanism, at the local authorities' option, to penalize owners of cars that are operated by drivers who commit crossing signal violations. Utilizing the same technology as red light cameras, railroad grade crossing violation-monitoring systems will identify vehicles that fail to adhere to safety signals indicating an approaching train. This will encourage drivers and owners of the vehicles to pay attention to and obey signs indicating appropriate stopping distances from railroad crossings and thereby help prevent serious and deadly accidents.

LEGISLATIVE HISTORY:

New bill

FISCAL IMPLICATIONS:

None to the state.

EFFECTIVE DATE:

This act shall take effect on the 30th day after it shall have become law.

A07646 Text:

STATE OF NEW YORK

7646

2015-2016 Regular Sessions

IN ASSEMBLY

May 21, 2015

Introduced by M. of A. ABINANTI -- 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 authorizing local authorities to establish demonstration programs, implementing railroad grade crossing monitoring systems by means of photo devices

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 135-a to read as follows:

3 S 135-A. RAILROAD GRADE CROSSING. A LOCATION WHERE RAILROAD TRACKS
4 INTERSECT A PUBLIC OR PRIVATE HIGHWAY, ROADWAY OR SIDEWALK.

5 S 2. The vehicle and traffic law is amended by adding a new section
6 1170-a to read as follows:

7 S 1170-A. OWNER LIABILITY FOR FAILURE OF OPERATOR TO OBEY SIGNAL INDICATING
8 APPROACH OF TRAIN. (A) 1. NOTWITHSTANDING ANY OTHER PROVISION OF
9 LAW, ANY LOCAL AUTHORITY IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND
10 AMEND A LOCAL LAW, ORDINANCE OR RESOLUTION ESTABLISHING A DEMONSTRATION
11 PROGRAM IMPOSING MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAILURE
12 OF AN OPERATOR THEREOF TO COMPLY WITH SECTION ELEVEN HUNDRED SEVENTY
13 OF THIS ARTICLE. SUCH DEMONSTRATION PROGRAM SHALL EMPOWER A LOCAL
14 AUTHORITY TO INSTALL AND OPERATE RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING
15 DEVICES AT ANY RAILROAD SIGN OR SIGNAL.

16 2. SUCH DEMONSTRATION PROGRAM SHALL UTILIZE NECESSARY TECHNOLOGIES TO
17 ENSURE, TO THE EXTENT PRACTICABLE, THAT PHOTOGRAPHS PRODUCED BY SUCH
18 RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING SYSTEMS SHALL NOT
19 INCLUDE IMAGES THAT IDENTIFY THE DRIVER, THE PASSENGERS OR THE CONTENTS
20 OF THE VEHICLE. PROVIDED, HOWEVER, THAT NO NOTICE OF LIABILITY ISSUED
21 PURSUANT TO THIS SECTION SHALL BE DISMISSED SOLELY BECAUSE A PHOTOGRAPH
22 OR PHOTOGRAPHS ALLOW FOR THE IDENTIFICATION OF THE CONTENTS OF A VEHI-

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

LBD10847-02-5

A. 7646

2

1 CLE, PROVIDED THAT SUCH LOCAL AUTHORITY HAS MADE A REASONABLE EFFORT TO
2 COMPLY WITH THE PROVISIONS OF THIS PARAGRAPH.

3 (B) WITHIN THE JURISDICTION OF ANY SUCH LOCAL AUTHORITY WHICH HAS
4 ADOPTED A LOCAL LAW, ORDINANCE OR RESOLUTION PURSUANT TO SUBDIVISION (A)
5 OF THIS SECTION, THE OWNER OF A VEHICLE SHALL BE LIABLE FOR A PENALTY
6 IMPOSED PURSUANT TO THIS SECTION IF SUCH VEHICLE WAS USED OR OPERATED
7 WITH THE PERMISSION OF THE OWNER, EXPRESS OR IMPLIED, IN VIOLATION OF
8 SECTION ELEVEN HUNDRED SEVENTY OF THIS ARTICLE, AND SUCH VIOLATION IS
9 EVIDENCED BY INFORMATION OBTAINED FROM A RAILROAD GRADE CROSSING PHOTO
10 VIOLATION-MONITORING SYSTEM; PROVIDED, HOWEVER, THAT NO OWNER OF A VEHI-
11 CLE SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION WHERE
12 THE OPERATOR OF SUCH VEHICLE HAS BEEN CONVICTED OF THE UNDERLYING
13 VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY OF THIS ARTICLE.

14 (C) FOR PURPOSES OF THIS SECTION, "OWNER" SHALL HAVE THE MEANING
15 PROVIDED IN ARTICLE TWO-B OF THIS CHAPTER. FOR PURPOSES OF THIS SECTION,
16 "RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING SYSTEM" SHALL MEAN A
17 VEHICLE SENSOR INSTALLED TO WORK IN CONJUNCTION WITH A RAILROAD SIGN OR
18 SIGNAL WHICH AUTOMATICALLY PRODUCES TWO OR MORE PHOTOGRAPHS, TWO OR MORE
19 MICROPHOTOGRAPHS, A VIDEOTAPE OR OTHER RECORDED IMAGES OF EACH VEHICLE
20 AT THE TIME IT IS USED OR OPERATED IN VIOLATION OF SECTION ELEVEN

21 HUNDRED SEVENTY OF THIS ARTICLE.

22 (D) A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY
23 THE LOCAL AUTHORITY IN WHICH THE CHARGED VIOLATION OCCURRED, OR A
24 FACSIMILE THEREOF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTO-
25 GRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PRODUCED BY A RAILROAD GRADE
26 CROSSING PHOTO VIOLATION-MONITORING SYSTEM, SHALL BE PRIMA FACIE
27 EVIDENCE OF THE FACTS CONTAINED THEREIN. ANY PHOTOGRAPHS, MICROPHOTO-
28 GRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES EVIDENCING SUCH A VIOLATION
29 SHALL BE AVAILABLE FOR INSPECTION IN ANY PROCEEDING TO ADJUDICATE THE
30 LIABILITY FOR SUCH VIOLATION PURSUANT TO A LOCAL LAW, ORDINANCE OR
31 RESOLUTION ADOPTED PURSUANT TO THIS SECTION.

32 (E) AN OWNER LIABLE FOR A VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY
33 OF THIS ARTICLE PURSUANT TO A LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED
34 PURSUANT TO THIS SECTION SHALL BE LIABLE FOR MONETARY PENALTIES IN
35 ACCORDANCE WITH A SCHEDULE OF FINES AND PENALTIES TO BE ESTABLISHED IN
36 SUCH LOCAL LAW, ORDINANCE OR RESOLUTION. THE LIABILITY OF THE OWNER
37 PURSUANT TO THIS SECTION SHALL NOT EXCEED ONE HUNDRED DOLLARS FOR EACH
38 VIOLATION; PROVIDED, HOWEVER, THAT AN ADJUDICATING AUTHORITY MAY PROVIDE
39 FOR AN ADDITIONAL PENALTY OF NOT IN EXCESS OF TWENTY-FIVE DOLLARS FOR
40 EACH VIOLATION FOR THE FAILURE TO RESPOND TO A NOTICE OF LIABILITY WITH-
41 IN THE PRESCRIBED PERIOD OF TIME.

42 (F) AN IMPOSITION OF LIABILITY UNDER A LOCAL LAW, ORDINANCE OR RESOL-
43 UTION ADOPTED PURSUANT TO THIS SECTION SHALL NOT BE DEEMED A CONVICTION
44 AS AN OPERATOR AND SHALL NOT BE MADE PART OF THE OPERATING RECORD OF THE
45 PERSON UPON WHOM SUCH LIABILITY IS IMPOSED NOR SHALL IT BE USED FOR
46 INSURANCE PURPOSES IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

47 (G) 1. A NOTICE OF LIABILITY SHALL BE SENT BY FIRST CLASS MAIL TO EACH
48 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF SECTION ELEV-
49 EN HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION. PERSONAL
50 DELIVERY ON THE OWNER SHALL NOT BE REQUIRED. A MANUAL OR AUTOMATIC
51 RECORD OF MAILING PREPARED IN THE ORDINARY COURSE OF BUSINESS SHALL BE
52 PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

53 2. A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE
54 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF SECTION ELEV-
55 EN HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION, THE REGIS-
56 TRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH VIOLATION, THE LOCATION
A. 7646

3

1 WHERE SUCH VIOLATION TOOK PLACE, THE DATE AND TIME OF SUCH VIOLATION AND
2 THE IDENTIFICATION NUMBER OF THE CAMERA WHICH RECORDED THE VIOLATION OR
3 OTHER DOCUMENT LOCATOR NUMBER.

4 3. THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE
5 PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST
6 THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO
7 CONTAIN A WARNING TO ADVISE THE PERSON CHARGED THAT FAILURE TO CONTEST
8 IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABIL-
9 ITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.

10 4. THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY THE LOCAL
11 AUTHORITY, OR BY ANY OTHER ENTITY AUTHORIZED BY SUCH LOCAL AUTHORITY TO
12 PREPARE AND MAIL SUCH NOTIFICATION OF VIOLATION.

13 (H) ADJUDICATION OF THE LIABILITY IMPOSED UPON OWNERS BY THIS SECTION
14 SHALL BE BY THE COURT HAVING JURISDICTION OVER TRAFFIC INFRACTIONS,
15 EXCEPT THAT IF SUCH LOCAL AUTHORITY HAS ESTABLISHED AN ADMINISTRATIVE
16 TRIBUNAL TO HEAR AND DETERMINE COMPLAINTS OF TRAFFIC INFRACTIONS CONSTI-
17 Tuting PARKING, STANDING OR STOPPING VIOLATIONS SUCH LOCAL AUTHORITY
18 MAY, BY LOCAL LAW, AUTHORIZE SUCH ADJUDICATION BY SUCH TRIBUNAL.

19 (I) IF AN OWNER RECEIVES A NOTICE OF LIABILITY PURSUANT TO THIS
20 SECTION FOR ANY TIME PERIOD DURING WHICH THE VEHICLE WAS REPORTED TO A
21 LAW ENFORCEMENT AGENCY AS HAVING BEEN STOLEN, IT SHALL BE A VALID
22 DEFENSE TO AN ALLEGATION OF LIABILITY FOR A VIOLATION OF SECTION ELEVEN
23 HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION THAT THE VEHI-
24 CLE HAD BEEN REPORTED TO THE POLICE AS STOLEN PRIOR TO THE TIME THE

25 VIOLATION OCCURRED AND HAD NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES
26 OF ASSERTING THE DEFENSE PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFI-
27 CIENT THAT A CERTIFIED COPY OF A POLICE REPORT ON THE STOLEN VEHICLE BE
28 SENT BY FIRST CLASS MAIL TO THE COURT HAVING JURISDICTION OR PARKING
29 VIOLATIONS BUREAU.

30 (J) 1. IN SUCH LOCAL AUTHORITY WHERE THE ADJUDICATION OF LIABILITY
31 IMPOSED UPON OWNERS PURSUANT TO THIS SECTION IS BY A COURT HAVING JURIS-
32 DICTION, AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF
33 LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION (G) OF THIS SECTION SHALL
34 NOT BE LIABLE FOR THE VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY OF
35 THIS ARTICLE, PROVIDED THAT HE OR SHE SENDS TO THE COURT HAVING JURIS-
36 DICTION A COPY OF THE RENTAL, LEASE OR OTHER SUCH CONTRACT DOCUMENT
37 COVERING SUCH VEHICLE ON THE DATE OF THE VIOLATION, WITH THE NAME AND
38 ADDRESS OF THE LESSEE CLEARLY LEGIBLE, WITHIN THIRTY-SEVEN DAYS AFTER
39 RECEIVING NOTICE FROM THE COURT OF THE DATE AND TIME OF SUCH VIOLATION,
40 TOGETHER WITH THE OTHER INFORMATION CONTAINED IN THE ORIGINAL NOTICE OF
41 LIABILITY. FAILURE TO SEND SUCH INFORMATION WITHIN SUCH THIRTY-SEVEN
42 DAY TIME PERIOD SHALL RENDER THE OWNER LIABLE FOR THE PENALTY PRESCRIBED
43 BY THIS SECTION. WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF THIS
44 PARAGRAPH, THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH VIOLATION
45 SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES OF THIS
46 SECTION, SHALL BE SUBJECT TO LIABILITY FOR THE VIOLATION OF SECTION
47 ELEVEN HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION AND
48 SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO SUBDIVISION (G) OF THIS
49 SECTION.

50 2. (I) IN SUCH LOCAL AUTHORITY WHICH HAS AUTHORIZED THE ADJUDICATION
51 OF LIABILITY IMPOSED UPON OWNERS BY THIS SECTION BY A PARKING VIOLATIONS
52 BUREAU, AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF
53 LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION (G) OF THIS SECTION SHALL
54 NOT BE LIABLE FOR THE VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY OF
55 THIS ARTICLE, PROVIDED THAT:

A. 7646

4

1 (A) PRIOR TO THE VIOLATION, THE LESSOR HAS FILED WITH THE BUREAU IN
2 ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED THIRTY-NINE OF
3 THIS CHAPTER; AND

4 (B) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM THE BUREAU OF
5 THE DATE AND TIME OF A LIABILITY, TOGETHER WITH THE OTHER INFORMATION
6 CONTAINED IN THE ORIGINAL NOTICE OF LIABILITY, THE LESSOR SUBMITS TO THE
7 BUREAU THE CORRECT NAME AND ADDRESS OF THE LESSEE OF THE VEHICLE IDENTI-
8 FIED IN THE NOTICE OF LIABILITY AT THE TIME OF SUCH VIOLATION, TOGETHER
9 WITH SUCH OTHER ADDITIONAL INFORMATION CONTAINED IN THE RENTAL, LEASE OR
10 OTHER CONTRACT DOCUMENT, AS MAY BE REASONABLY REQUIRED BY THE BUREAU
11 PURSUANT TO REGULATIONS THAT MAY BE PROMULGATED FOR SUCH PURPOSE.

12 (II) FAILURE TO COMPLY WITH CLAUSE (B) OF SUBPARAGRAPH (I) OF THIS
13 PARAGRAPH SHALL RENDER THE OWNER LIABLE FOR THE PENALTY PRESCRIBED IN
14 THIS SECTION.

15 (III) WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF THIS PARAGRAPH,
16 THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH VIOLATION SHALL BE DEEMED
17 TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES OF THIS SECTION, SHALL BE
18 SUBJECT TO LIABILITY FOR SUCH VIOLATION PURSUANT TO THIS SECTION AND
19 SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO SUBDIVISION (G) OF THIS
20 SECTION.

21 (K) 1. IF THE OWNER LIABLE FOR A VIOLATION OF SECTION ELEVEN HUNDRED
22 SEVENTY OF THIS ARTICLE PURSUANT TO THIS SECTION WAS NOT THE OPERATOR OF
23 THE VEHICLE AT THE TIME OF THE VIOLATION, THE OWNER MAY MAINTAIN AN
24 ACTION FOR INDEMNIFICATION AGAINST THE OPERATOR.

25 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO OWNER OF A
26 VEHICLE SHALL BE SUBJECT TO A MONETARY FINE IMPOSED PURSUANT TO THIS
27 SECTION IF THE OPERATOR OF SUCH VEHICLE WAS OPERATING SUCH VEHICLE WITH-
28 OUT THE CONSENT OF THE OWNER AT THE TIME SUCH OPERATOR FAILED TO OBEY A
29 RAILROAD SIGN OR SIGNAL INDICATING THE APPROACH OF A TRAIN. FOR

30 PURPOSES OF THIS SUBDIVISION THERE SHALL BE A PRESUMPTION THAT THE OPER-
 31 ATOR OF SUCH VEHICLE WAS OPERATING SUCH VEHICLE WITH THE CONSENT OF THE
 32 OWNER AT THE TIME SUCH OPERATOR FAILED TO OBEY A RAILROAD SIGN OR SIGNAL
 33 INDICATING THE APPROACH OF A TRAIN.

34 (L) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE LIABILITY
 35 OF AN OPERATOR OF A VEHICLE FOR ANY VIOLATION OF SECTION ELEVEN HUNDRED
 36 SEVENTY OF THIS ARTICLE.

37 (M) IN ANY SUCH LOCAL AUTHORITY WHICH ADOPTS A DEMONSTRATION PROGRAM
 38 PURSUANT TO SUBDIVISION (A) OF THIS SECTION, SUCH LOCAL AUTHORITY SHALL
 39 SUBMIT AN ANNUAL REPORT ON THE RESULTS OF THE USE OF A RAILROAD GRADE
 40 CROSSING PHOTO VIOLATION-MONITORING SYSTEM TO THE GOVERNOR, THE TEMPO-
 41 RARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON OR
 42 BEFORE JUNE FIRST, TWO THOUSAND SEVENTEEN AND ON THE SAME DATE IN EACH
 43 SUCCEEDING YEAR IN WHICH THE DEMONSTRATION PROGRAM IS OPERABLE. SUCH
 44 REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO:

45 1. A DESCRIPTION OF THE LOCATIONS WHERE RAILROAD GRADE CROSSING PHOTO
 46 VIOLATION-MONITORING SYSTEMS WERE USED;

47 2. THE AGGREGATE NUMBER, TYPE AND SEVERITY OF ACCIDENTS REPORTED AT
 48 INTERSECTIONS WHERE A RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING
 49 SYSTEM IS USED FOR THE YEAR PRECEDING THE INSTALLATION OF SUCH SYSTEM,
 50 TO THE EXTENT THE INFORMATION IS MAINTAINED BY THE DEPARTMENT;

51 3. THE AGGREGATE NUMBER, TYPE AND SEVERITY OF ACCIDENTS REPORTED AT
 52 INTERSECTIONS WHERE A RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING
 53 SYSTEM IS USED, TO THE EXTENT THE INFORMATION IS MAINTAINED BY THE
 54 DEPARTMENT;

A. 7646

5

1 4. THE NUMBER OF VIOLATIONS RECORDED AT EACH INTERSECTION WHERE A
 2 RAILROAD GRADE CROSSING PHOTO VIOLATION-MONITORING SYSTEM IS USED AND IN
 3 THE AGGREGATE ON A DAILY, WEEKLY AND MONTHLY BASIS;

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

6 6. THE NUMBER OF FINES AND TOTAL AMOUNT OF FINES PAID AFTER FIRST
 7 NOTICE OF LIABILITY ISSUED FOR VIOLATIONS RECORDED BY SUCH SYSTEMS;

8 7. THE NUMBER OF VIOLATIONS ADJUDICATED AND RESULTS OF SUCH ADJUDI-
 9 CATIONS INCLUDING BREAKDOWNS OF DISPOSITIONS MADE FOR VIOLATIONS
 10 RECORDED BY SUCH SYSTEMS;

11 8. THE TOTAL AMOUNT OF REVENUE REALIZED BY SUCH LOCAL AUTHORITY FROM
 12 SUCH ADJUDICATIONS;

13 9. EXPENSES INCURRED BY SUCH LOCAL AUTHORITY IN CONNECTION WITH THE
 14 PROGRAM; AND

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

16 (N) IT SHALL BE A DEFENSE TO ANY PROSECUTION FOR A VIOLATION OF
 17 SECTION ELEVEN HUNDRED SEVENTY OF THIS ARTICLE PURSUANT TO A LOCAL LAW
 18 OR ORDINANCE ADOPTED PURSUANT TO THIS SECTION THAT THE RAILROAD SIGNAL
 19 INDICATIONS WERE MALFUNCTIONING AT THE TIME OF THE ALLEGED VIOLATION.

20 S 3. Subdivision 2 of section 87 of the public officers law is amended
 21 by adding a new paragraph (o) to read as follows:

22 (O) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED
 23 IMAGES PREPARED UNDER THE AUTHORITY OF SECTION ELEVEN HUNDRED SEVENTY-A
 24 OF THE VEHICLE AND TRAFFIC LAW.

25 S 4. This act shall take effect on the thirtieth day after it shall
 26 have become a law.

DRAFT

LOCAL LAW NO. OF 2015
COUNTY OF ROCKLAND
STATE OF NEW YORK

(Introduced by: Hon. Christopher Carey)

A local law amending Chapter 340 of the Laws of Rockland County.

Be it enacted by the legislature of the county of Rockland as follows:

Section 1. Legislative Intent

Section 2. Chapter 340 of the laws of Rockland County shall be amended as follows

Chapter 340. Secondhand **Articles and** Precious Metals or Gems

§ 340-1. Legislative intent.

It is hereby declared and found that, because of the increase of incidents of property theft, the increase of the price of precious metals and gems, the ease with which some secondhand dealers buy and sell **personal electronic devices and** precious metals or gems without requiring identification or proof of ownership, these secondhand **article and/or** precious metal or gem dealers represent to persons involved in crime an opportunity to dispose of stolen property. For business enterprises to be allowed to continue to operate without laws to control and regulate the purchase of such articles not only jeopardizes the property rights of many people but also extremely hampers the police agencies in their efforts to recover stolen property and identify suspects. If the law enforcement agencies are to function in this area, a local law regulating secondhand **articles and/or** precious metal or gem dealers is necessary. Thereby, the public health, morals and general welfare of the County of Rockland will be protected and promoted and the best interest of the people would be served by the control and regulation of secondhand **article and/or** precious metal or gem dealers. It is the intention of the Legislature of Rockland County that this chapter, amending Local Law No. 9-1980 **and its subsequent amendments**; shall constitute the complete law in relation to the control and regulation of secondhand **article and/or** precious metal or gem dealers for the County of Rockland and shall therefore supersede the provisions of Local Law No. 9-1980.

§ 340-2. Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

COUNTY

The County of Rockland, New York

DEALER IN SECONDHAND ARTICLES

A person who, in any way, as principal, broker or agent of a business which deals in the purchase or sale of any secondhand personal electronic devices, radios, televisions, household appliances, either electric or mechanical, automobile accessories or parts, including tires, office furniture, business machines and secondhand articles of whatsoever nature, or in the purchase or sale of pawnbrokers' tickets or other evidence of pledged articles or, not being a pawnbroker, who deals in the redemption or sale of pledged articles. Nothing contained in this chapter shall be construed to apply to household furniture and furnishings, pianos, books, magazines, tapestries, burlaps, paintings, drawings, etchings, engravings or automobiles; nor to exchanges, returns or credits of merchandise when the article or articles exchanged, returned or credited are accepted in full or part payment for new merchandise; nor to the first purchase or sale in the County of any imported secondhand articles.

DEALERS IN SECONDHAND PRECIOUS METALS OR GEMS

A person who, in any way, as principal, broker or agent of a business which buys from the public at retail, deals in the purchase from the public of gold, silver, platinum or gems; deals in the purchase from the public of any secondhand manufactured articles composed wholly or in part of gold, silver, platinum or gems; or deals in the purchase from the public of articles composed wholly or in part of precious metals for the purpose of melting or refining. Notwithstanding any other provisions of this chapter to the contrary, the purchase of precious metals or gems from the public incidental to the resetting, restyling or remanufacturing of jewelry for the owner shall be excluded from the application of this chapter.

DIRECTOR

The Director of Consumer Protection or his/her designee.

GEMS

Articles composed wholly or in part of the following: emerald, diamond, ruby, sapphire, black opal, ruby spinel, citrine, demantoid, bloodstone, jasper, pearl, aquamarine, beryl, topaz, garnet, chrysolite, fire opal, moonstone, rose quartz, tourmaline, carnelian, peridot, sardonyx, zircon, morganite, chrysoprase, kunzite, cat's eye, amethyst, chalcedony, onyx, agate, alexandrite, star sapphire, lapis lazuli, harlequin opal, turquoise, jade or any other item composed wholly or in part of any gem or stone whose value is in excess of \$100.

PERSON

Includes natural persons, corporations, partnerships, associations, joint-stock companies and all other entities of any kind capable of being used.

PERSONAL ELECTRONIC DEVICE

A piece of electronic equipment, such as a laptop computer, tablet, MP-3 player or a mobile phone, that is small and easy to carry.

PRECIOUS METALS

Articles composed wholly or in part of gold, silver or platinum.

§ 340-3. License required; display.

- A. No person shall, within the County of Rockland, establish, engage in or carry on, directly or indirectly, the business of dealing in secondhand **articles and/or** precious metals or gems, either separately or in connection with some other business, without first having obtained and having in full force and effect a license as provided herein.
- B. Such license shall be displayed in a conspicuous place at the designated place of business of the licensee.

§ 340-4. Application for license; fee; bond.

- A. Every person desiring to procure a license shall file with the Director an application supplied by the Director, containing the following information:
 - (1) The name and description of the applicant in the form and manner as set forth in the rules and regulations.
 - (2) The address of the applicant, local and legal.
 - (3) That the applicant is of legal age.
 - (4) A statement as to whether or not the applicant has, within the past 10 years, been convicted of any crime or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor and such other facts or evidence as is deemed necessary to establish that the applicant is a person fit and capable of properly conducting the activity or business for which the license is sought.
 - (5) A description of the exact type of business that the applicant intends to conduct.
 - (6) The name and address of the owner or owners of the business premises and the nature of the right of occupancy of the applicant to the use of said premises.
 - (7) Two photographs of the applicant, taken not more than 60 days prior to the filing of the application, which photographs shall be two inches by two inches,

showing the head and shoulders of the applicant in a clear and distinguishing manner. If the applicant is a partnership, photographs and fingerprints as provided herein are required for each partner. If the applicant is a corporation, all officers shall be photographed and fingerprinted as provided herein.

(8) A corporate applicant shall furnish the name, address and title of an officer of the corporation or designated agent of service upon whom process or other legal notice may be served.

(9) A copy of the applicant's fingerprints shall be provided as set forth in the rules and regulations.

B. Such application for a secondhand **article and/or** precious metal or gem dealer's license shall be accompanied by a nonrefundable filing fee in the amount as set forth under the rules and regulations adopted pursuant to this chapter and a bond or other surety to the County of Rockland in the sum of \$2,000, conditioned on the due observance during the term of the license of any of the laws relating to such dealers.

§ 340-5. Issuance of license.

A. Upon receipt of the license application and the payment of the filing fee and bonds required of the applicant, the Director shall prepare and deliver to the applicant his license.

B. The Director shall keep a record of all licenses issued, as well as any matters herein described.

C. No license shall be granted under this chapter to any dealer in secondhand **articles and/or** precious metals or gems:

(1) Who has been convicted of a felony or a misdemeanor within the last 10 years, except for any misdemeanor under the Vehicle and Traffic Law of this state.

(2) Who has been found, within the last 10 years, by any court of the state to have practiced a civil fraud, deceit or misrepresentation in the conduct of such secondhand **article and/or** precious metal or gem dealers' business unless the **Director** [Sealer] shall decide, in any particular case, upon the facts there presented, that it is proper to issue the license applied for.

(3) Whose license under this chapter has been revoked or as provided in § 340-8 of this chapter.

(4) Whose license has been suspended under this chapter and the period of such suspension has not expired at the time of the application for the license.

D. Notwithstanding any provision of this chapter to the contrary, the Director, in his/her discretion, may grant a license as provided herein to any applicant who has been convicted of a crime within the last 10 years, upon the finding by the Director that said applicant is of good moral character and has demonstrated

reliability and trustworthiness in finance and commercial transactions and would not compromise or jeopardize the public in the transaction of secondhand **articles and/or** precious metal or gem business.

§ 340-6. Expiration and renewal of license.

Every license shall expire on the 30th day of November next after its issuance. Every license may be renewed as of the first day of December, upon payment of the required fee as set forth in the rules and regulations and filing a renewal application with the Director, certifying that no changes have occurred with respect to any of the facts or information required or supplied on the original application, or, if there have been any changes, the applicant shall furnish the facts and information relating to such changes and shall comply with the requirements of § 340-3 hereof with respect thereto.

§ 340-7. Nontransferability of license.

No license under the provisions of this chapter shall be transferred or assigned to any person or used by any person other than the licensee to whom it was issued, his agents, employees or duly authorized representatives, said agents, employees or duly authorized representatives having been approved by the Director.

§ 340-8. Suspension or revocation of license; appeals.

A. Suspension or revocation.

- (1) Any license granted under this chapter may be suspended for a specific time not to exceed one year or revoked for cause, after a hearing before a hearing officer appointed by the County Executive of Rockland County. The determination as to suspension or revocation shall be made by said hearing officer. Any such hearing shall be held after reasonable written notice by the Director to the licensee of the charges, and the licensee shall have the right to counsel and to present evidence. Whenever any license shall be revoked or suspended, no refund of unearned portion of the license fee shall be made.
- (2) A license to conduct, operate, engage in and transact secondhand **articles and/or** precious metals and gems may be suspended or revoked by the hearing officer for any one or more of the following causes:
 - (a) Fraud, misrepresentation or bribery in securing a license.
 - (b) The making of any false statement as to a material matter in any application for a license or in any proceeding with respect to the suspension or revocation of a license, or a response to any order, demand, or inquiry made by the hearing officer or by the Director with respect to a license or with respect to any transaction taken pursuant to this chapter.
 - (c) The person or the management personnel of the licensee are untrustworthy or not of good moral character.

- (d) Failure to display the license as provided in this chapter.
- (e) Violation of any provision of this chapter or of any rule or regulation adopted hereunder.

B. Appeals.

- (1) Any person aggrieved by the action of a hearing officer in suspending or revoking a license or the Director in refusing to grant a license or the making of any other decision or determination may take an appeal therefrom to the Legislature of Rockland County within 30 days after said decision or determination has been made. Such appeal shall be taken by filing, with the Clerk to the Legislature, a notice of appeal specifying the grounds therefor and the person from whom the appeal is being taken.
- (2) The Clerk to the Legislature shall forthwith forward to the Legislature the notice of appeal and shall direct the person whose decision or determination is being appealed from to forthwith transmit to the Legislature all the papers constituting the record upon which the action appealed from was taken.
- (3) The Chair [~~Chairman~~] of the Legislature shall designate three Legislators to hear appeals.
- (4) A time shall be fixed for the hearing of the appeals and the notice of the hearing shall be mailed to the appellant and the person whose decision or determination is being appealed at least five days before the hearing date.
- (5) Upon the hearing, any party may appear in person or by his attorney.
- (6) The three Legislators designated to hear appeals may reverse or affirm, wholly or partly, or may modify the decision, determination or action appealed from and shall make such decision or determination as, in their sole opinion, ought to be made in the premises and to that end shall have the powers of the person from which the appeal is taken.
- (7) Any person or persons aggrieved by any determination made upon an appeal may apply to the Supreme Court of the State of New York for a review by a proceeding under Article 78 of the Civil Practice Laws and Rules, provided that the proceeding is commenced within 30 days after the filing of the decision in the office of the Clerk to the Legislature.

§ 340-9. Restrictions.

- A. It shall be unlawful for any dealer of secondhand articles and/or precious metals or gems to engage in buying activities in any place within Rockland County other than the place of business designated in such license, except to meet with a customer at his or her home, bank or suitable place of business. A dealer in secondhand articles and/or precious metals or gems may, upon application to the Director and receiving approval of the Director, extend his or her license to cover other locations, such as flea markets, fairs, bazaars or religious or charitable organization functions.

- B. It shall be unlawful for any dealer of secondhand precious metals or gems to purchase any secondhand **personal electronic device and/or** precious metals or gems from any person whom he knows to be, or has reason to believe to be, under the age of 18 years.
- C. It shall be unlawful for a secondhand personal electronic device **article and/or** precious metal or gem dealer to purchase secondhand precious metals or gems from any person between the hours of 10:00 p.m. and 6:00 a.m.
- D. It shall be unlawful for any dealer in secondhand **articles and/or** precious metals or gems to sell or dispose of any secondhand **personal electronic device and/or** precious metals or gems until the expiration of 20 days after the acquisition by such dealer of said **personal electronic device and/or** precious metals or gems.
- E. It shall be unlawful for a secondhand **article and/or** precious metal or gem dealer to continue to carry on business after his **or her** license is suspended, revoked or has expired and has not been renewed.
- F. It shall be unlawful to cause, allow or approve of the blockage, obstruction or concealment from the view of the consumer any scale, machine, weighing device or part thereof used to weigh or calculate the value of precious metals or gems.
- G. It shall be unlawful for any dealer of secondhand precious metals or gems to damage, destroy, alter or in any way change or direct or request anyone else to alter or change the structure or makeup of a precious metal or gem so as to make it unidentifiable within 20 days after the acquisition by said dealers of such precious metal or gem. In the event that said precious metal or gem dealer damages, destroys, alters or in any way changes the precious metal or gem, the secondhand precious metal or gem dealer shall restore the precious metal or gem to its original condition as possible, provided that the secondhand precious metal or gem dealer receives a written request to do so from the owner of said item and law enforcement agency within the time limits set forth in this Subsection G and § 340-11 of this chapter, whichever is longer.

§ 340-10. Display of daily price required.

The daily price upon which the dealer bases his **or her** quotation for gold and silver shall be clearly displayed in Arabic numbers in the manner as set forth in the rules and regulations.

§ 340-11. Lost or stolen property.

If any articles composed wholly or in part of precious metals or gems, or **a personal electronic device,** shall be advertised in any newspaper printed in the County of Rockland or reported by any law enforcement agency as having been lost or stolen, and if any articles answering such description or any part thereof shall be or come into the possession of any licensed dealer, such dealer, upon receiving actual written or oral notice of the similarity of description of such articles, shall immediately give

information relating thereto to the appropriate law enforcement agency. No disposition of such articles shall be effected until authorization to do so shall be given to such dealer by said law enforcement agency. The failure of the law enforcement agency within 30 days to give the dealer further written notice that the articles are actually lost or are believed to be stolen and are needed in connection with a pending investigation or prosecution shall constitute authorization to dispose of said articles.

§ 340-12. Records.

- A. Every dealer in secondhand **articles and/or** precious metals or gems by the close of the business day shall keep an electronic record in the form as set forth in the rules and regulations or a written record in duplicate and on a form prescribed by the Director of consecutively numbered transactions, legibly written in English, which shall contain a complete, thorough description of every secondhand **personal electronic device**, precious metal or gem article so purchased, utilizing accepted trade words and phrases such as, but not limited to, serpentine, herringbone, braided herringbone, rope, crosscut, woven link, cobra, basket weave, tricolor, florentine, twist, beveled, gem names as listed in § 340-2, quantities of gems, number or numbers of said articles and any monograms, inscriptions or other marks of identification, **such as manufacturer, model name and number, and serial number**, that may appear on such articles. The record, whether electronic or written, shall also include the name, residence address and description of the person from whom such purchase was made, including the day and hour of the purchase. Within 48 hours of the close of business on the day of purchase, the dealer in **secondhand articles and/or** precious metals or gems shall forward by electronic means or mail, to the Rockland County Bureau of Criminal Identification, the duplicate record of purchase, as provided herein, of each transaction which had taken place on that day.
- B. Such electronic or written record shall be kept on the business premises of the secondhand precious metal or gem dealership or at the place designated on the fully approved license, at all times during normal business hours. Such record shall be open to the inspection of any police officer or the Director or any person duly authorized for such purposes by the Director.
- C. If the record of sales is in written form, the dealer is mandated to use the forms prescribed by the Director and shall reimburse the Director for the cost of said forms.

§ 340-13. Identity of person from whom purchase is made.

- A. It shall be the duty of every secondhand **article and/or** precious metal or gem dealer to verify the identity of every person from whom he **or she** makes a purchase and to make and keep a written record of the nature of the evidence submitted by such person to prove his **or her** identity.
- B. Only the following shall be deemed acceptable evidence of identity:

- (1) Any official document, except a Social Security Account number card, issued by the United States Government, any state, county, municipality or subdivision thereof, any public agency or department thereof or any public or private employer, which requires and bears the signature and picture of the person to whom issued.
- (2) Other identification documentation which, under the circumstances of any particular purchase, would lead a reasonable person to believe to be accurate and reliable, when identification under Subsection B(1) is not available.

C. It shall be the duty of every dealer in secondhand **articles and/or** precious metal or gem articles to require that every person from whom an article is purchased sign his or her name in the presence of the secondhand **articles and/or** precious metal or gem dealer and to compare the signature on the identifying document, if any, and retain on said premises the person's signature, together with the number and description of the identifying document, if any.

§ 340-14. Reporting of records information.

Every secondhand precious metal or gem dealer shall furnish to the Director or his/her agent or the appropriate law enforcement agency all information requested relative to all records required to be kept under this chapter.

§ 340-15. Duty to enforce.

It shall be the duty of the Director or any police officer having jurisdiction at the site where a person is seen dealing in secondhand **articles and/or** precious metals or gems to require such person seen so dealing, and who is not known to the Director or such police officer to be duly licensed, to produce or display his **or her** secondhand precious metal dealer's license and to enforce the provisions of this chapter against any person found to be in violation of the same. It shall be the duty of the Director or any police officer as described herein to require the immediate closure of any business dealing in the purchase of secondhand **articles and/or** metals or gems as defined herein who is operating said business without a license as required by § 340-3 of this chapter.

§ 340-16. Disclaimer of liability.

This chapter shall not create any liability on the part of the County of Rockland, its officers, agents or employees or any police officer for any act or damage caused as a result of reliance on this chapter or any administrative decision lawfully made thereunder.

§ 340-17. Penalties for offenses.

- A. A failure to comply with the provisions of § 340-3 or a failure to comply with so much of § 340-12A which requires every dealer in secondhand **articles and/or** precious metals or gems by the close of the business day to keep a written

record of every secondhand **personal electronic device and/or** precious metal or gem article purchased by said dealer shall constitute a Class A misdemeanor, punishable by a fine not exceeding \$1,000 or imprisonment for a period not exceeding one year, or by both such fine and imprisonment.

B. A failure to comply with the other sections of this chapter shall constitute a violation and shall be punishable by a fine not exceeding \$250 or imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense shall constitute a separate and distinct violation hereunder for each day the offense is continued.

C. In addition to the penalties provided above, any offense against the provisions of this chapter or the rules or regulations adopted under this chapter shall subject the person committing the offense to a civil penalty in an amount not to exceed \$1,000 as imposed by the Director for each day that the offense shall continue. Said penalty shall be collectible by and in the name of the County of Rockland.

§ 340-18. Rules and regulations.

The Director shall have the authority to adopt rules and regulations in respect to any subject matter over which he/she has jurisdiction under this chapter or any other law after a public hearing by the Director and subject to the approval of the Rockland County Legislature. Upon adoption and approval of such rules and regulations, they shall be duly filed with the Clerk to the Rockland County Legislature.

Section 3. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this local law 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, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law 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.

Section 4. Effective date.

This local law shall take effect ninety (90) days after filing with the Secretary of State.

ELY
LG-2015-27-LL
2/25/15