

Submitted by the County Executive and Introduced by Presiding Officer Norma Gonsalves

LOCAL LAW NO. 9 - 2014

A LOCAL LAW TO AMEND TITLE 72-B OF THE MISCELLANEOUS LAWS OF NASSAU COUNTY WHICH ESTABLISHED A DEMONSTRATION PROGRAM IMPOSING MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAILURE OF AN OPERATOR THEREOF TO COMPLY WITH POSTED MAXIMUM SPEED LIMITS IN A SCHOOL SPEED ZONE

Passed by the Nassau County Legislature on June 16, 2014  
Voting: ayes: 19 nays: 0 abstained: 0

Became a law on June 26, 2014 with the approval of the County Executive

APPROVED AS TO FORM  
*[Signature]*  
Deputy County Attorney

BE IT ENACTED by the Nassau County Legislature as follows:

Section 1. Title 72-B of the Miscellaneous Laws of Nassau County is amended to read as follows:

TITLE 72-B

VEHICLE OWNER LIABILITY FOR FAILURE OF  
OPERATOR TO COMPLY WITH CERTAIN POSTED MAXIMUM SPEED LIMITS

**§1. Program Established.** The County of Nassau, pursuant to state statute, hereby establishes a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with posted maximum speed limits in a school speed zone. Such program shall continue for as long as authority to conduct such program shall continue.

**§2. Definitions.** For purposes of this Local Law, the following terms shall have the following meanings:

1. "Manual on uniform traffic control devices" or "mutcd" shall mean the manual and specifications for a uniform system of traffic control devices maintained by the commissioner of transportation pursuant to section sixteen hundred eighty of Article 30 of the New York Vehicle and Traffic Law ;

2. "Owner" shall have the meaning provided in article two-b of Chapter 71 of the Consolidated Laws of New York.

3. "Photo speed violation monitoring system" shall mean a vehicle sensor installed to work in conjunction with a speed measuring device which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in a school speed zone in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of Article 30 of the New York Vehicle and Traffic Law in accordance with the provisions of the Vehicle and Traffic Law; and

4. "School Speed Zone" shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

### **§3. Liability**

1. The owner of a vehicle shall be liable for a penalty imposed pursuant to this Local Law if such vehicle was used or operated with the permission of the owner, express or implied, within a school speed zone in violation of subdivision (c) of section eleven hundred eighty of Article 30 of the New York Vehicle and Traffic Law or during the times authorized pursuant to subdivision (a) of section eleven hundred eighty of Article 30 in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of Article 30 of the New York Vehicle and Traffic Law, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school speed zone, and such violation is evidenced by information obtained from a photo speed violation monitoring system; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this Local Law where the operator of such vehicle has been convicted of the underlying violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of Article 30 of the New York Vehicle and Traffic Law.

2. A certificate, sworn to or affirmed by a technician employed by the County as applicable, or a facsimile thereof, based upon inspection of photographs,

microphotographs, videotape or other recorded images produced by a photo speed violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall include at least two date and time stamped images of the rear of the motor vehicle that include the same stationary object near the motor vehicle and shall be available for inspection reasonably in advance of and at any proceeding to adjudicate the liability for such violation.

3. An owner liable for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of Article 30 of the New York Vehicle and Traffic Law pursuant to a demonstration program shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be promulgated by the Nassau County Traffic and Parking Violations Bureau. The liability of the owner pursuant to this local law shall not exceed fifty dollars for each violation; provided, however, that each such traffic and parking violations agency 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 time period.

4. An imposition of liability under the demonstration program shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

#### **§4. Notice of Liability**

1. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of Article 30 of the New York Vehicle and Traffic Law pursuant to this Local Law within fourteen business days if such owner is a resident of the State of New York and within forty-five business days if such owner is a non-resident. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of Article 30 of the New York Vehicle and Traffic Law, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation, the identification number of the camera which recorded the violation

or other document locator number, at least two date and time stamped images of the rear of the motor vehicle that include the same stationary object near the motor vehicle, and the certificate charging the liability.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a prominent warning to advise the person charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

4. The notice of liability shall be prepared and mailed by the Nassau County Traffic and Parking Violations Bureau, or by any other entity authorized by the Nassau County Traffic and Parking Violations Bureau to prepare and mail such notice of liability.

5. Adjudication of the liability imposed upon owners of this Local Law shall be by the Nassau County Traffic and Parking Violations Bureau.

6. If an owner receives a notice of liability pursuant to this Local Law for any time period during which the vehicle or the number plate or plates of such vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of Article 30 of the New York Vehicle and Traffic Law that the vehicle or the number plate or plates of such vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision, it shall be sufficient that a certified copy of the police report on the stolen vehicle or number plate or plates of such vehicle be sent by first class mail to the court having jurisdiction in such counties.

**§5. Signage.** On County roads, during testing or otherwise prior to the final activation of any photo speed violation monitoring system, the Department of Public Works, or an appropriate contractor, shall cause the installation of signage advising motorists of the presence of each photo speed violation monitoring system. Such signage shall be in conformity with muted, as to size, placement and any other relevant factor. Such signs shall state "Speed limit enforced by photo/video." The absence or obscuring of signage shall not absolve any owner from liability under this law.

## §6. Report

1. The Nassau County Traffic and Parking Violations Bureau or such entity it so designates, shall conduct a study and submit a report on the results of the use of photo devices to the governor, the temporary president of the Senate and the speaker of the Assembly. Such report shall include:

A. The locations where and dates when photo speed violation monitoring systems were used;

B. The aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within all school speed zones within the County, to the extent the information is maintained by the department of motor vehicles of the State of New York;

C. The aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within school speed zones where photo speed violation monitoring systems were used, to the extent the information is maintained by the department of motor vehicles of the State of New York;

D. The number of violations recorded within all school speed zones within the County, in the aggregate on a daily, weekly and monthly basis;

E. The number of violations recorded within each school speed zone where a photo speed violation monitoring system is used, in the aggregate on a daily, weekly and monthly basis;

F. The number of violations recorded within all school speed zones within the County that were:

(i) More than ten but not more than twenty miles per hour over the posted speed limit;

(ii) More than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) More than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) More than forty miles per hour over the posted speed limit;

G. The number of violations recorded within each school speed zone where a photo speed violation monitoring system is used that were:

(i) More than ten but not more than twenty miles per hour over the posted speed limit;

(ii) More than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) More than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) More than forty miles per hour over the posted speed limit;

H. The total number of notices of liability issued for violations recorded by such systems;

I. The number of fines and total amount of fines paid after the first notice of liability issued for violations recorded by such systems;

J. The number of violations adjudicated and the results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

K. The total amount of revenue realized by the County in connection with the program;

L. The expenses incurred by the County in connection with the program; and

M. The quality of the adjudication process and its results.

§ 2. This Legislature hereby finds and determines that action relating to this local law constitutes a Type II action pursuant to Title 6 of the New York Code of Rules and Regulations Section 617.5 (c) (16) (“installation of traffic control devices on existing streets, roads and highways”).

§ 3. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this 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 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.

§ 4. This law shall take effect immediately.

**APPROVED**



**County Executive**

**DATE** 6/26/14