

CHAPTER 1074



5365

1969-1970 Regular Sessions

IN SENATE

March 25, 1969

Introduced by COMMITTEE ON RULES—(at request of Messrs. Marchi, Caemmerer, Calandra, Conklin, Goodman, Speno)—read twice and ordered printed, and when printed to be committed to the Committee on City of New York

Not

AN ACT

To amend the vehicle and traffic law, in relation to providing for the administrative adjudication of traffic violations in cities having a population of one million or more

In. 9 Pg. 10 printed Copy reads "e. to the State" - Law book reads "e. to the State:"
In. 134 Pg. 10 printed reads "subparagraph" Law book reads "sub-paragraph."

Compared by *Sommers & Ferraresi*
Sommers & Stokes

APPROVED

MAY 28 1969

Approved

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JOHN H. HUGHES
45TH DISTRICT
CHAIRMAN
COMMITTEE ON JUDICIARY

THE SENATE
STATE OF NEW YORK
ALBANY

April 24, 1969

Bill Jacket
S 5365

M E M O

To: Robert Douglass, Counsel to the Governor
Michael Whiteman, Assistant Counsel

From: Gary M. Axenfeld, Counsel

Re: Senate Bill 5365

AN ACT To amend the vehicle and traffic law, in relation to providing for the administration adjudication of traffic violations in cities having a population of one million or more.

The Judiciary Committee, with the authorization of Senator Hughes, has this day reported said bill per your request.

It is the Senator's understanding that your office, in cooperation with the Legislature, will continue to review this Act with a view towards improving the contents thereof and further review the advisability of amending said law to include therein specific provisions as to procedural matters, and such other provisions as it may, from time to time, become advisable so to do in order that a workable provision can finally be arrived at, prior to the effective date contained in said Act.

You will further review the capabilities of the Department to handle the increased work load envisioned by this bill in the event that it should become apparent that the Department is not ready to handle said work load prior to the effective date.

Chap. 1074



STATE OF NEW YORK
DEPARTMENT OF AUDIT AND CONTROL
ALBANY

May 15, 1969

ARTHUR LEVITT
STATE COMPTROLLER

IN REPLYING REFER TO

5-5365

REPORT TO THE GOVERNOR ON LEGISLATION

TO: The Honorable Robert R. Douglass, Counsel to the Governor

RE: Senate Int. 5365 (Introduced by: Committee on Rules)

TITLE: To amend the vehicle and traffic law, in relation to providing for the administrative adjudication of traffic violations in cities having a population of one million or more.

EFFECTIVE DATE: July 1, 1970

RECOMMENDATION: None.

DISCUSSION:

Synopsis and effect of bill:

Senate Intro. 5365 adds a new Article 2-A to the Vehicle and Traffic Law establishing a system of administrative adjudication of traffic infractions which occur in the city of New York. Such infractions, formerly heard as criminal proceedings by the Criminal Court of such city, will now be dealt with as civil matters by hearing officers appointed by the Commissioner of Motor Vehicles. Penalties, rather than fines, will be imposed upon violators.

The bill provides for form of summons and answer; pleading in person and by mail; penalties for non-appearance or failure to answer; the form and manner of hearings; the reporting and distribution of penalties collected under the new article; administrative review, appeal and judicial review.

The bill also amends §1803 of the Vehicle and Traffic Law (the distribution of fines, penalties and forfeitures) to conform such section to the new article.

Present calculations indicate that the State will realize an increase of approximately \$500,000 over

the amount now realized from Vehicle and Traffic proceedings conducted by the Criminal Courts of the City of New York. These calculations are based upon an estimated cost to the State of \$1,000,000 for operation of the program.

Arguments in support of bill:

It is intended that new Article 2-A of the Vehicle and Traffic Law serve two main purposes in providing for the adjudication of traffic infractions, to wit, the removal of such cases from the calendar of the Criminal Court, thus enabling such Court to concentrate upon misdemeanors and felonies and to remove the onus of criminality from those accused of most traffic violations. The bill appears to succeed in this regard.

The method provided by Senate Intro. 5365 for distribution of penalties collected by the hearing officers is relatively straightforward and should result in an accretion of revenue to the State. All penalties will be returned by the State Comptroller to the city of New York, regardless of the section of the Vehicle and Traffic Law involved, less three dollars per case retained by the State. In addition, fees for services of the Criminal Court, now payable by the State to the city of New York pursuant to Code of Criminal Procedure §740-a(2), will not be payable when traffic infractions are determined administratively.

Accretion of revenue to the State, however, is dependent upon the stability of the cost factor to the State in maintaining the program envisioned by this bill. If practice reveals that costs exceed revenues, resulting in an operational loss, Assembly Intro. 7159, now before the Governor, makes provision for the withdrawal of funds from the penalty distribution to the city of New York to eliminate the deficit.

Arguments in opposition to bill:

Senate Intro. 5365 contains a number of defects which should be corrected by the Legislature prior to the effective date of such act.

The bill requires the posting of fifteen dollars "security" if a denial of the charge is made by mail. This "security" becomes forfeit if the alleged violator fails to appear on the return date.

27 03

Code of Criminal Procedure §335-b, authorizing a plea of not guilty by mail in traffic cases, does not require the posting of any security. This discrepancy places a greater burden on alleged traffic violators within the city of New York than upon those outside of such city.

This bill provides for the payment of penalties imposed thereunder to the State Comptroller. The bill, however, neglects to provide for the payment to the State Comptroller, (or anyone else for that matter) of forfeited "security". Similarly, there is no provision for the ultimate disposition of such moneys, i.e. to the State, to the City.

In providing for notice of the date of hearing, the bill appears to authorize such notice by means of regular mail. Such notice should be made by registered or certified mail, exclusively. (See Code of Criminal Procedure, §335-b.)

Since administrative adjudication of most traffic infractions will replace court adjudication under this bill, a procedure of administrative review is set forth therein. Payment of a ten dollar fee is made a condition precedent to any such appeal. This fee requirement will place a heavy burden on the poor; in many cases, an appeal will not be taken due to the inability of the infractor to pay the mandated fee. As in the case of forfeited "security", supra, no provision is made for payment of the appellate fee to the State Comptroller nor for its subsequent distribution.

It is strongly suggested that subdivision four of proposed §227 of the Vehicle and Traffic Law be amended to make reference to §99-a of the State Finance Law, the section establishing the Justice Court Fund and granting fiscal powers to such unit.

The intent and purpose of the recodification of the Vehicle and Traffic Law in 1959 was to create a system of traffic law enforcement uniform throughout the State. The only exception to this purpose has been a difference in forum - town courts, village courts, city courts, traffic courts, district courts and criminal courts. In no case, however, has the forum been other than a court of competent jurisdiction, in which the strict rules of evidence apply and whose verdict is subject to appeal or to the remedy of Coram Nobis.

May 15, 1969

This bill flies directly in the face of such intent. It creates, for New York City, a non-judicial procedure for determining traffic violations, in which the strict rules of evidence will not apply, and in which appeals are restricted to a higher administrative body at a price, and court review may only be obtained subject to the narrow limitations of Article 78 of the CPLR.

This bill makes no provision for the safeguarding of the rights of those accused of a traffic infraction. At present, since the charge is heard in a court of law, such rights are protected ipso facto; failure of the court in this regard may be remedied by Coram Nobis. Coram Nobis, of course, does not lie in an administrative hearing. Since Coram Nobis does not lie and since a substantial fee is required as a prerequisite to an appeal, this bill will discriminate against those least able to obtain adequate counsel to represent them.

ARTHUR LEVITT
State Comptroller

By


Alfred W. Haight
First Deputy Comptroller

HMF/cs

57 05

5-5365

May 9, 1969

TO: Honorable Robert R. Douglass, Counsel to the Governor

RE: Senate Bill No. 5365 (Committee on Rules)
(Governor's Program Bill)
Senate Bill No. 5095-A (Committee on Rules)
Assembly Bill No. 7159 (Committee on Rules)

PURPOSE:

These bills would provide for the administrative adjudication of both moving and non-moving traffic violations in cities having a population of one million or more.

COMMENT:

In view of the fact that Senate Bill No. 5365 is a Governor's Program Bill and that Assembly Bill No. 7159 amends that bill to assure that the State will receive full reimbursement for its costs in adjudicating moving traffic violations in New York City, no further explanatory statement is felt to be necessary. The Department strongly favors the enactment of these proposals.

Senate Bill No. 5095-A, introduced at the request of New York City, would supplement the Governor's Program Bill by the establishment of a City agency to hear and determine non-moving traffic violations. It should be noted that the conforming amendments made by this bill to Section 155 of the Vehicle and Traffic Law and Section 883 of the New York City Charter would apply only to the administrative tribunal established by the City. In this regard, additional amendments had been prepared by the City, in cooperation with this Department, to expand the conforming amendments to the latter two sections so that they would also apply to the State administrative agency. Because of the difficulties in obtaining a home rule message on the original bill, it was decided that the additional amendments should not be made at the present Session. However, the City and this Department will be working together over the summer months to prepare necessary amendments to both bills. These amendments, with your approval, will be introduced at the next legislative Session, and should take effect prior to the effective date of the above mentioned bills (July 1, 1970). However, even if such amendments were not passed by that effective date, the Governor's Program Bill could be fully operative since Section 225 of the Vehicle and Traffic Law, as added by that bill, contains a "notwithstanding clause".

It should also be noted that both bills raise a constitutional issue, since Article VI, Section 15 of the New York State Constitution gives the New York City Criminal Court jurisdiction "over crimes and other violations of law. . ." (paragraph c). It is submitted that the above jurisdictional grant is not exclusive, however, and that the Legislature does have authority to establish administrative tribunals in such cases. A second constitutional question arises under the Equal Protection Clause, in that the administrative tribunals' jurisdiction would only apply to New York City, and imprisonment would not be authorized for violations adjudicated by such tribunals. However, it appears that the case of Rosenberg v. Hogan, recently decided by the Court of Appeals, disposes of this constitutional question in favor of the legislation. The Court there stated that territorial discrimination cannot form a basis for raising a constitutional question under the Equal Protection Clause. Furthermore, the Court indicated that even if territorial discrimination could be used as a basis for raising such issue, the present crisis confronting the Criminal Court system in New York City provided ample justification for not permitting a jury trial in misdemeanor cases (and hence, for authorizing the administrative adjudication of traffic cases in New York City). Therefore, it appears that the legislation could not be successfully attacked under the Equal Protection Clause.

In view of the foregoing, and because of the overwhelming burden which now confronts the New York City Criminal Courts, it is strongly recommended that these proposals be given Executive approval.

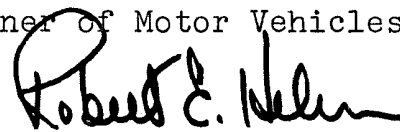
The acts would take effect July 1, 1970.

RECOMMENDATION:

Approval.

VINCENT L. TOFANY
Commissioner of Motor Vehicles

By:



ROBERT E. HELM
Counsel

REH/ps

30-DAY BILL
BUDGET REPORT ON BILLS

Chap. 1074
Session Year: 19 69

SENATE

Introduced by:

ASSEMBLY

No. 5365

Committee on Rules

No.

Law: Vehicle and Traffic

Sections: 225, 226, 227, 228 (new)
1803 (amend)

Division of the Budget recommendation on the above bill:

Approve: X Veto: _____ No Objection: _____ No Recommendation: _____

1. Subject and Purpose: This bill would amend ~~The~~ Vehicle and Traffic Law to permit the administrative adjudication of traffic infraction cases occurring in the City of New York.

2. Summary of provisions: Violations of the Vehicle and Traffic Law and violations of local laws, ordinances, orders, rules or regulations relating to traffic are currently adjudicated in the criminal courts. This bill would permit the Department of Motor Vehicles to appoint hearing officers to hear and determine cases resulting from violations of the Vehicle and Traffic Law, local laws, ordinances, orders, rules or regulations which are classified as traffic infractions (but not including parking, standing or stopping) and which occur in a city with a population in excess of one million.

In addition, the bill:

- a. authorizes the Commissioner of Motor Vehicles to establish procedures regulating the form of summons and complaint to be used in these traffic violation cases, including the provision of a schedule of monetary penalties to be used where an answer is made by mail admitting a charge;
- b. prescribes the methods of answering a summons;
- c. provides guidelines for the conduct of hearings by hearing officers;
- d. provides that all penalties collected as a result of the hearing be paid to the State Department of Audit and Control to the credit of the Justice Court Fund. Following an audit by the Comptroller, all such penalties shall be paid to the city in which the violation occurred -- with the exception of three dollars per violation which shall be retained by the State;
- e. provides for the appointment of appeals boards to hear appeals filed on the determinations of the hearing officers and provides that appeals officers who are not full time employees of the Department of Motor Vehicles be selected from names submitted by the State and local bar associations;

Date _____ Examiner: _____

Disposition: Chapter No. Veto No.

- f. outlines the procedures and establishes a fee of ten dollars for the filing of appeals; and
- g. permits judicial review of a determination of an administrative judge after an appeal has been filed and determined.

The bill would take effect on July 1, 1970.

NOTE: There are two other bills currently before the Governor for approval which are related to this bill. One proposal (A. 7159) amends Subdivision 4 of Section 227 of the current proposal to insure that the administrative adjudication program is self-supporting. The other proposal (S. 5095-A) would permit the City of New York to establish an administrative tribunal to hear and determine allegations of traffic infractions relating to parking violations.

- 3. Prior legislative history: A 1968 Legislative proposal (S. 1368) would have established in the Department of Motor Vehicles a Traffic Infraction Board to be appointed by the Governor having jurisdiction of all traffic infractions in cities having a population in excess of one million. It did not pass.
- 4. Arguments in support: The heavy volume of traffic infraction cases brought before the criminal courts in New York City has resulted in court backlogs. This proposal would remove these cases from the courts, and should result in the more expeditious handling of traffic infraction cases. At the same time, the bill would also safeguard individual rights by providing that persons convicted of a traffic violation may appeal the determination of the administrative judge to an appellate board whose decision is, in turn, subject to judicial review.
- 5. Possible objections: The City of New York may object to this legislation on the grounds that the State will receive three dollars of each violation answered -- money that now goes to New York City in most instances. However, on the other hand, New York City will no longer have to bear the expense of trying these cases.

It may also be argued that if it is desirable for the State to provide this service to New York City, the State should bear the cost of the program rather than to pay for the program with monies that are currently going to New York City.
- 6. Other State agencies interested: The Departments of Motor Vehicles and Audit and Control have an active interest in and favor the intent of this proposal. In addition, the Office for Local Government may have an interest in this bill.
- 7. Known position of others: The New York State Automobile Association favors this bill.
- 8. Budgetary implications: The Department of Motor Vehicles estimates that based on 858,000 moving violations in New York City during 1967, a sum of \$864,000 will be needed annually to administer the provisions of this

bill. In addition, the Department estimates that the two full-time appeals boards which will be necessary to hear appeals from these cases will cost an additional \$140,000 annually. The total annual cost to the Department would be slightly over \$1,000,000.

It has been estimated that the State will lose approximately \$600,000 annually that is currently paid into the Justice Court Fund by New York City as a result of these cases. However, based on 1967 data, the State will receive approximately \$2.1 million in new revenue from this bill -- 700,000 cases at the rate of \$3 per case. Assuming that the level of traffic infractions remains fairly constant and that the Department of Motor Vehicles' cost estimates are fairly accurate, this would result in a net gain to the State of approximately \$500,000.

Another proposal which has passed both houses, A. 7159, would amend Sub-division 4 of Section 227 to provide that the State shall retain more than the three dollar per violation if necessary to offset the costs to the State of administering this article.

NOTE: The State may also receive some additional revenue from the \$10 fees paid by persons filing an appeal and from the posting of \$15 securities pending a hearing at which the individual fails to appear. Although the Department of Audit and Control contends that the distribution of these funds is not clear, it may also be argued that:

- the ten dollar fee for filing an appeal should be paid into the State General Fund as provided by Sections 70 and 121 of the State Finance Law, and
- moneys retained from securities posted when requesting a hearing and for which an individual fails to appear, if considered a bail forfeiture, would go to the State Comptroller under Section 1803 of the Vehicle and Traffic Law.

However, since the bill does not take effect until July 1, 1970, any revisions necessary on these points can be considered during the forthcoming session of the Legislature.

9. Recommendation: This bill provides for the State Department of Motor Vehicles to administratively adjudicate traffic infraction cases occurring in New York City. In addition to providing for a more expeditious handling of traffic infraction cases, the bill should enable the criminal courts to devote more time to cases of a serious criminal nature. This office recommends approval.

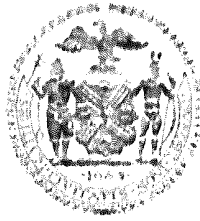
Date: May 15, 1969

Examiner: Francis Amigo

Disposition:

R. R. DeLeon
7A 19
Francis Amigo

10



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N. Y. 10007

S 5365

May 8. 1969

S.5365 - by Rules Committee

AN ACT To amend the vehicle and traffic law, in relation to providing for the administrative adjudication of traffic violations in cities having a population of one million or more

APPROVAL RECOMMENDED

Honorable Nelson A. Rockefeller
Governor of the State of New York
Albany, New York

Dear Governor Rockefeller:

The above bill is before you for executive action.

This bill would add a new article to the Vehicle and Traffic Law to be Article 2A to provide for a system of administrative adjudication of moving traffic violations in the City of New York. Hearing officers appointed by the State Commissioner of Motor Vehicles would hear and determine such cases in lieu of the disposition thereof by the New York City Criminal Court

All penalties collected would be payable to the State Department of Audit and Control. After audit by the State Comptroller, the City would receive the penalties collected, less the sum of \$3.00 for each violation, which would be retained by the State. At present, the City collects all fees derived from penalties for traffic violations, but maintains at its own cost the administration of the Criminal Court.

Honorable Nelson A. Rockefeller
May 8, 1969
Page 2

This bill would compliment A.5095-A presently before you for executive action, which removes stopping, standing and parking motor vehicle violations from New York City Criminal Court and places it in an administrative tribunal to be established in the New York City Department of Traffic. These bills, if enacted into law, will relieve the overwhelming burden upon the Criminal Court of adjudicating non-criminal offenses and would permit the Court to deal promptly with the increasing case load of criminal offenses coming before it.

The procedures set forth in this bill are fair and meet established due process criteria. Additionally, the hearing of non-criminal offenses in an administrative setting should curtail the resentment of drivers summonsed for such offenses and should reduce the irritations incidental thereto.

For the foregoing reasons, I wholeheartedly support this bill and I strongly urge that you approve it.

Very truly yours,

JOHN V. LINDSAY, Mayor

By


Legislative Representative

S. 5365

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
COMMITTEE ON CRIMINAL COURTS,
LAW AND PROCEDURE

1969 LEGISLATIVE BULLETIN No. 30

S. 5365

Committee on Rules

**Traffic infractions, administrative adjudication of
(amend Vehicle and Traffic Law, add new Article 2-A).**

APPROVED

This bill proposed by Governor Rockefeller would add a new Article 2-A to the Vehicle and Traffic Law to consist of four sections—Sections 225, 226, 227 and 228.

Section 25 would authorize the appointment of hearing officers to hear and determine all traffic infractions, except those relating to parking, standing or stopping, which occur within a city having a population of one million or more. Those courts having jurisdiction over criminal violations would continue to hear cases where a traffic infraction and a crime arose out of the same transaction or occurrence.

Section 226 would:

(1) authorize the Commissioner of Motor Vehicles to prescribe the form of the summons to be used in cases which can be adjudicated administratively;

(2) permit the motorist in such cases to deny or admit to the charges either in person or by mail; require the posting of security in the amount of \$15 where the charge is denied by mail; and authorize a hearing in such cases;

(3) provide that the license or driving privilege of any person who fails to answer a summons could be suspended until the answer were properly made, and require that the security posted to secure an appearance at a hearing would be forfeited if the motorist failed to attend such hearing.

Section 227 would provide that all hearings for moving traffic in-

fractions be held before a hearing officer appointed by the Commissioner ; that the burden of proof in such hearings would be upon the People ; and that no charge could be established except by clear and convincing evidence. The section would further provide that a determination that a charge has been established would be treated as a conviction, for the purposes of the Vehicle and Traffic Law, except that no penalty could include imprisonment. Imposition of any suspension or revocation would be delayed for 30 days, to permit the motorist to appeal an adverse determination, except where such a delay would create a traffic safety hazard. In addition, the imposition of such penalties would be stayed by operation of law whenever an appeal had not been decided within 30 days of its filing.

Section 228 would authorize the Commissioner to establish one or more appeals boards to hear appeals in cases where traffic infractions are adjudicated administratively. Appeals Officers who are not full-time employees of the Department would be selected from names submitted by the major bar associations of the city. All appeals would have to be filed within 30 days of an adverse determination, and the fee for filing such appeal would be \$10. No determination resulting from an administrative adjudication could be appealed to a court unless an administrative appeal had first been filed, and an adverse determination had been received.

In addition, the bill would provide that all penalties collected pursuant to the provisions of the new article would be paid to the city in which the violation occurred, except that the sum of \$3 for each violation would be retained by the state.

The desirability of the Governor's proposal in terms of the administration of criminal justice is self-evident. By removing virtually all traffic infractions from the jurisdiction of the Criminal Court except for serious misdemeanors, the serious overcrowding of the criminal courts in New York City would be diminished. Since the primary effective sanction in traffic infractions are loss of license and registration and monetary penalties, the removal of these violations from the criminal process would in no way hamper our traffic enforcement problems. Indeed, in addition to court time, it should save countless police man-hours since under the current situation police officers often have to testify at a Criminal Court trial and subsequently at an administrative hearing before the Department of Motor Vehicles. The Governor's bill does not cover parking violations but we note that a proposal by Mayor Lindsay, S. 5095, which we also approve, creates an administrative tribunal within the city to handle those violations which should also reduce the tremendous burden on the Criminal Courts.

For the reason stated, the bill is approved.

Town of Stamford
Hobart, New York 13788

55365

February 21, 1969

Honorable Nelson A. Rockefeller
Governor, State of New York
State Capitol
Albany, New York

ADMITTED EDGED

FEB 24 1969

Dear Governor Rockefeller

At the February 6, 1969 meeting of the
Town Board of the Town of Stamford the following
resolution was unanimously approved:

RESOLVED: that the Town Board of the Town
of Stamford, Delaware County, New York, be unalterably
opposed to any legislative act, executive or judicial
order, or any other proposal which will have the effect
of removing from town and village courts jurisdiction
over violations of the Vehicle and Traffic Law or any
other offense which now is within the jurisdiction of
said courts. Particularly, but not exclusively, the
Stamford Town Board is opposed to the proposal that
minor traffic violations be adjudicated by hearing
officers of the Department of Motor Vehicles.

Very truly yours

Kevin Cantwell

Town Clerk
Town of Stamford

RB:KC



Recorder's Court
City of Elmira
Elmira, New York 14901

ACKNOWLEDGED

FEB 18 1969

John D. Fratley
Judge

55365
February 17, 1969

Honorable Nelson Rockefeller
Governor of the State of New York
State Capitol
Albany, New York

Re: Proposed Legislation

Dear Governor Rockefeller:

I have noticed with a great deal of interest two items in newspapers recently on proposed changes in legislation governing traffic violations. The one, making it a misdemeanor to drive with a blood test of .15% or better, is a most significant advance and one which I have been in favor of for some time.

As you have noted, this has been very successful in England and I am sure will be successful in our State. One of our biggest difficulties at the present time is the fact that the law today makes a blood test of that size only a presumption of intoxication, even though almost all medical authorities have, for years, maintained that a test of this size makes a person unfit to drive a vehicle. Passing of this legislation will greatly aid our court congestion as far as trials of cases involving Section 1192-2 (operating a vehicle while intoxicated) and will expedite our trials since a jury will no longer be required to find the defendant intoxicated but will only have to rule on the accuracy and validity of the test. We have had jury trials in the past where juries have found a person not guilty, even though their test was above .15%, due to a lack of understanding on their part of the effects of such a test upon the individual.

I commend you highly for your recommendation of this legislation and feel it will be a tremendous advance in cutting our injury and fatality rates.

Your second recommendation is one which I hesitate to comment on since I have not seen the complete proposal. However, I do have reservations about your proposal to have the State take over the handling of minor traffic violations in order to relieve court congestion. Although we would be happy in this Court to be relieved of this responsibility so that we could devote more time to criminal matters, I do not feel that this is the answer. Our

Honorable Nelson Rockefeller
February 17, 1969
Page 2

backlog at the present time is in trying to schedule for trial minor traffic violations such as red light, stop sign, and the like, where attorneys are involved. We are up to date on any trials where there are no attorneys.

Rather than transferring these cases to the jurisdiction of a Referee I would strongly recommend that the Courts of the State be given the authority to hear these cases summarily, just as hearings are now held by the Referees in motor vehicles cases. By this I mean giving the courts the power to handle the trials by doing all the interrogating while at the same time giving attorneys still the right to appear and ask additional questions. Handling these in a summary manner would allow us to hear three and four times the number of traffic violations in a day than we now hear. I would seriously urge consideration of this recommendation.

With kindest regards, I am

Sincerely yours,


JOHN D. FRAWLEY
JUDGE, RECORDER'S COURT

JDF/mlb

COMMERCE AND INDUSTRY ASSOCIATION OF NEW YORK, INC.

99 Church Street - New York 7, N. Y.

REctor 2-5200

55365

May 14, 1969

Hon. Robert P. Douglass
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York

Re: S. 5095A
S. 5365

DISAPPROVED

Dear Mr. Douglass:

When, as and if there is an Administrative Procedure Act in this State prescribing minimal standards for adjudicatory matters coming before administrative agencies, and when, as and if reasonable standards are established and adhered to in the selection, hiring, assignment and supervision of hearing officers, some thought may be given to turning over to administrative agencies the adjudication of charges of traffic violations. Until that time such a move is unthinkable.

Even with such assurances we find it difficult to see what advantage is gained by transferring traffic violation adjudication to the agencies involved in both subject bills. There would not appear to be any cost saving over establishing additional positions in a traffic division of the City's Criminal Court. In either case it means additional personnel and additional administrative overhead. There is more than enough shifting of legislative and judicial functions to administrative agencies without adding unnecessarily to the list.

Sincerely,

Arnold Witte
General Manager

AW:nmcd

New York State Automobile Association

828 WASHINGTON AVENUE



TELEPHONE: (518) 482-6787

ALBANY, N. Y. 12203

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May 6, 1969

Hon. Robert R. Douglass
Executive Chamber
State Capitol
Albany, New York 12224

Regarding: Senate 5095A and Senate 5365
Introduced by Rules Committee

Dear Mr. Douglass:

We are enclosing a copy of our Newsletter which outlines our strong support of the above bills which have passed the Legislature.

We respectfully request that you inform Governor Rockefeller of our support of these measures and it is our hope he will approve them.

Sincerely yours,

LBS:JCB
Enclosure

Lewis E. Scott, Chairman
Legislative Committee

AFFILIATED WITH THE AMERICAN AUTOMOBILE ASSOCIATION

LEGISLATIVE NEWSLETTER NEW YORK STATE AUTOMOBILE ASSOCIATION

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FOR TRAFFIC OFFENDERS -- JUSTICE AT LAST!

After many years of public discontent with traffic courts, a new and effective plan has been presented to Albany lawmakers for dealing with traffic infractions outside the criminal court in New York City. The program is confined to New York City because it is there that the problem is most acute. However, once established there it is hoped that advantages of the new system will be extended throughout the state.

The bills to implement the plan are Senate 5095 (New York City Comm.) and Assembly 6684 (Judiciary Comm.), which would set up an administrative tribunal in the New York City government to handle parking violations cases, and Senate 5365 (New York City Comm.), which would establish a similar procedure in the State Department of Motor Vehicles to hear all other traffic infraction cases.

TIME FOR THE CHANGE

Appearance in a traffic court to answer a parking or traffic summons can make an impression that will influence a motorist's attitude towards all courts and the American system of justice. Motorists have been expressively resentful about their traffic court experiences, as indicated in the following excerpts from letters written to us by AAA members.

"I lost 1/2 day of business going, waiting and returning, the terrible system and the manner in which they treat the public is horrifying."

"... the Traffic Court in New York City is, by and large, an atrocity. It is extremely difficult to hear the sounds of justice for the ring of the cash registers."

"Guilty or not, the best policy in New York seems to be to pay up and shut up."

"When he [the judge] acted the way he did after I got on the stand, it merely confirmed what I had suspected; he wasn't even interested in what I had to say, even if it meant fining me for my first ticket in 35 years of driving."

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"I think it is high time that something was done to improve and reform New York City Traffic Courts -- in the interests not only of justice and fair play but in the interests of traffic safety. If, as claimed, a prime function of the court is traffic safety, New York City's Traffic Courts are failing in their duty."

Judges and court administrators have been equally critical. A newly appointed judge last year, Joel Tyler, said early in his new judicial experience: "The traffic court is a disgrace ... nobody wants it in criminal court, but it's there, another example of how the system rejects change."

The New York State Automobile Association has long advocated the reform of the traffic court system and has worked closely with legislative committees and other public agencies and officials to develop this new approach.

Mayor Lindsay, in proposing a city tribunal to handle parking violations, hailed it as something that would "... remove the stigma of criminal proceedings from what clearly should be a civil matter."

Governor Rockefeller, when introducing the state's part of the program, pointed out that it would not only relieve the criminal courts of most traffic cases but, in addition "... the hearing of traffic cases by qualified hearing officers of the Department of Motor Vehicles would result in the more expeditious disposition of these cases."

HOW THE PROGRAM WILL WORK

The innovative aspect of the new plan is that for most traffic violations a motorist will not have to appear in criminal court before a judge. Informal hearings will be held under new rules particularly adapted to the nature of the offense before referees and hearing officers. The motorist will have a chance to tell his side of the story.

Serious violations such as reckless driving, drunk driving, hit and run, etc., will remain criminal offenses and will be heard by the court.

Parking violations will be separated from moving and non-parking offenses as follows:

Parking Violations

Under the Mayor's bill, a parking violations bureau would be established in the New York City Department of Traffic headed by a director appointed by the Commissioner of Traffic. Hearing examiners, who must be practicing attorneys, would be appointed to hold informal hearings on all charges of violations of parking, stopping or standing rules. They would have the power to impose financial penalties but no imprisonment. The hearing officer would not be bound by court rules of evidence and would have the power to subpoena the officer who issued the summons. Penalties could not exceed \$50 per violation, and provision is made for an increased penalty in the event the owner or operator does not answer to the charge or appear on the hearing date.

Those who wish an appeal may have both administrative and court review of the hearing officer's decision.

Since the Legislature has given New York City the power to establish and enforce parking regulations, hearing and determining charges of violating these regulations is a logical extension of this power.

Non-Parking Violations

Under the Governor's proposal, charges of all traffic infractions other than parking would be decided by referees of the Department of Motor Vehicles using similar procedures.

Motorists would continue to be able to plead in person or by mail. The Commissioner may establish a schedule of fines for various infractions, and the motorist would be able to pay his fine by mail. If the motorist denies the charge and requests a hearing, he would have to post \$15 as security to guarantee his appearance. The security would be returned to him at the hearing.

Failure to answer to the charge or appear at the hearing could be punished by suspension of driving privileges.

If the motorist admits the charge or, if after a hearing the referee determines the charge should stand, a penalty, other than imprisonment, could be imposed. Monetary fines and suspension or revocation as a penalty could be imposed the same as if the charge had been heard by a court. A referee's decision would be appealable and suspension or revocation could be delayed for 30 days to permit an appeal.

THE BENEFITS

Enactment of these bills will mean the end of an outmoded system which has done nothing more than penalize those who are accused of traffic infractions. Except for the degree of punishment, it treats all offenders alike. This new system will be able to distinguish between the intentional, willful violator and the motorist who inadvertently commits a traffic infraction and to prescribe proper treatment commensurate with the individual's problems and needs.

The proposed change in handling traffic infractions would remove the criminal stigma from traffic violations and treat them as the civil offenses which the Legislature has already declared them to be. The serious congestion in the criminal courts could be alleviated and upward of 18 criminal court judges could be reassigned to serious criminal matters.

In addition, the new proposal would eliminate the duplication of effort that now exists when the Department of Motor Vehicles holds its own hearings on the same state of facts after trials have been held by the courts to determine if driving privileges should be taken away.

Traffic safety is of too great importance to permit the continuation of the present

system. In the past, reform efforts generally have failed to accomplish the real objective of having a traffic court system which plays a meaningful part in the community's total traffic safety effort.

This plan deserves a fair trial and a vote for its adoption by every member of the Legislature. After it has been established in New York City, it should be extended to other areas of the state as soon as possible.



-----AND OUR POSITION

REGISTRATION OF REPAIR SHOPS: Requires that all persons engaged in the business of repairing motor vehicles be registered with the Commissioner of Motor Vehicles. S. 5226, Rules Committee (Finance Comm.)

FAVORED because for years motorists have been the victims of well known and extensively documented fraudulent practices at automobile repair shops. The fact that negligent or shoddy work where safety equipment is involved may make an automobile unsafe to drive convinces us of the need for legislation that will help to eliminate these unconscionable practices. Motorists need assurance that repair shops are operated honestly and that charges for repairs are fair and reasonable. The public should have recourse to some agency, other than the courts, that can assist them in gaining satisfaction. Honest shop owners who satisfy their customers and operate successful businesses would not suffer any undue hardships under the provision of this measure. For several years, we have strongly supported efforts to give the state effective controls that were capable of preventing repair abuses. Requiring persons in this business to register with the Commissioner, provides the type of state control needed and the kind of consumer protection the public is demanding.

PARKWAY SPEED LIMITS: Empowers the State Department of Transportation to establish speed limits on highways maintained by state and county park commissions, and parkway authorities. S. 3480, Meyerson (Motor Vehicles Comm.)

FAVORED because there are still instances where the speed limits established by local authorities are arbitrarily set and are unrealistic. Unreasonable speed limits breed civil disrespect that can carry over to other traffic regulations, thus seriously undermining efforts to enforce the law generally. This legislation, if adopted, will not only result in more realistic speed limits but will help restore the confidence of the motorist in established laws and their enforcement.

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STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

APPROVAL # 75-76

MEMORANDUM filed with the following bills:

Senate Bill Number 5365, entitled:

MAY 20 1969

75
"AN ACT to amend the vehicle and traffic law, in relation to providing for the administrative adjudication of traffic violations in cities having a population of one million or more"

Senate Bill Number 5095-A, entitled:

76
"AN ACT to amend the vehicle and traffic law, the charter of the city of New York, and the administrative code of the city of New York, in relation to the establishment of an administrative tribunal to hear and determine allegations of traffic infractions relating to parking violations, and repealing section 435-18.0 of the administrative code of the city of New York, relating to the liability of lessors of motor vehicles for parking violations committed by their customers"

A P P R O V E D

These bills would lead to important reform in the traffic court system of New York City, and free an estimated 18 criminal court judges for more serious cases.

Senate Bill Number 5365, which is part of my 1969 program, will relieve the Criminal Court of the City of New York of the burden of hearing most moving traffic violations occurring within New York City, except the most serious, and enable them to be heard instead before qualified hearing officers of the Department of Motor Vehicles.

Senate Bill Number 5095-A, proposed by the City of New York, provides for comparable administrative adjudication by a City agency of parking violations.

Both measures will become effective July 1, 1970 with respect to alleged violations occurring on and after that date.

Such serious traffic cases as drunken or reckless driving, or driving without a license or registration, will continue to be heard in the criminal courts, but the overwhelming majority of traffic cases, involving both moving and parking violations, will be removed from the courts.

Not only will more expeditious treatment of these minor cases result from the use of administrative channels, but the relief of court calendar congestion should contribute to prompter and more judicious handling of serious criminal matters. A reduction in the length of incarceration of criminal defendants before trial is only one example of the benefits that can flow from these measures.

Under these bills, the rights of motorists will be fully safeguarded by appropriate administrative procedures. An administrative appeal will be provided for both parking and moving violations. Beyond that, an appeal to the Supreme Court under Article 78 of the Civil Practice Law and Rules also will be authorized.

The State program will be self-supporting, with the State retaining three dollars, or such additional amounts as may be necessary to cover its costs, from each case. The balance of revenues from fines will be paid to the City.

Approval of these bills is recommended by the Mayor of the City of New York, the Department of Motor Vehicles, the Association of the Bar of the City of New York and the New York State Automobile Association, among many others.

The bills are approved.

(Signed) Nelson A. Rockefeller