



Legislation Text

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AN ORDINANCE AMENDING TITLE XXIII, TRAFFIC, CHAPTER 4, LIMITING USE OF STREETS TO CERTAIN VEHICLES, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING A NEW SECTION 23:4-5, PERMITTING A BUS LANE PHOTO ENFORCEMENT MONITORING SYSTEM, AND AMENDING APPENDIX TO TITLE XXIII, SCHEDULE OF PENALTIES FOR VIOLATIONS, TO INCREASE BUS LANE VIOLATION PENALTIES FROM \$35.00 TO \$50.00.

Sponsors: Gonzalez/ James

WHEREAS, in accordance with the provisions of *N.J.S.A. 39:4-197, et seq.*, the Municipal Council of the City of Newark previously passed Ordinance 23:4-2, designating an exclusive bus lane along Broad Street between Pennington Street and Orange Street; Ordinance 23:4-3 designating an exclusive bus lane along Market Street between Mulberry Street and University Avenue; and Ordinance 23:4-3.1 designating an exclusive bus lane along Raymond Boulevard between McCarter Highway and Raymond Plaza West; and

WHEREAS, *N.J.A.C. 16:27-1.1, et seq.*, permits municipalities to establish certain traffic controls on roads under their jurisdiction, including the establishment of new traffic control devices as they apply to State highways and non-State highways that impact a State highway; and

WHEREAS, the City of Newark wants to install Bus Lane Photo Enforcement Monitoring Systems along the above-referenced designed exclusive bus lanes, which are all non-State highways that impact a State highway; and

WHEREAS, the Bus Lane Photo Enforcement Monitoring System will serve as effective tool in encouraging drivers to observe and obey existing designed exclusive bus lanes to facilitate the flow of buses, reduce congestion and protect the safety and well-being of motor vehicle occupants and pedestrians in the City of Newark; and

WHEREAS, the Department of Engineering wishes to amend Title XXIII, Traffic, Chapter 4, Limiting Use of Streets to Certain Vehicles, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, to add Section 23:4-5 which shall establish a Bus Lane Photo Enforcement Monitoring System for the purpose of enforcing traffic control violations along the above-referenced designed exclusive bus lanes; and

WHEREAS, the Department of Engineering also wishes to amend the appendix to Title 22, Schedule of Penalties for Violations, to increase bus lane violation penalties from \$35.00 to \$50.00; and

WHEREAS, the City of Newark has determined that adoption of the Ordinance is in the best interest of the health, safety and welfare of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Section 1. Title 2, Traffic, Chapter 4, Limiting Use of Streets to Certain Vehicles, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is hereby amended to add a new Section 23:4-5 which shall read as follows:

SECTION 23:4-5, BUS LANE PHOTO ENFORCEMENT MONITORING SYSTEM

A. Purpose. This Ordinance is enacted to encourage drivers to strictly obey traffic control devices along the City of Newark's designated Bus Lanes, facilitating the flow of buses, reducing congestion and protecting the safety and well-being of motor vehicle occupants and pedestrians in the City of Newark in full compliance New Jersey Laws and in accordance with any rules and regulations promulgated or to be promulgated by the State of New Jersey, the Commissioner of Transportation, the Chief Administrator of the Motor Vehicle Commission, the Superintendent of the State Police and any Rules of Court that may be adopted by the Supreme Court of the State of New Jersey.

1. The City of Newark is hereby authorized and empowered to establish bus lane photo enforcement traffic control devices along the City of Newark's designated Bus Lanes that will impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with bus lane restrictions in accordance with the provisions of this Section. Such bus lane photo enforcement traffic control devices shall be stationary or mobile and shall be activated at locations determined by the Department of Engineering.

B. Definitions. For purposes of this Ordinance, the following terms shall have the following meanings:

1. "owner" shall mean the registered owner of the motor vehicle.

2. "bus lane photo enforcement monitoring system" shall mean a traffic control device that is capable of operating independently of an enforcement officer and produces one or more images of each vehicle at the time it is in violation of bus lane restrictions in designated Bus Lanes.

3. "bus lane restrictions" shall mean restrictions on the use of designated bus lanes by vehicles other than buses along designated bus lanes.

4. "Department" means the Department of Engineering.

5. "Recorded image" means a digital image recorded by a bus lane photo enforcement monitoring system.

6. "Summons" means a citation alleging a violation.

7. "Monitoring System" means a traffic control device utilizing a camera, or a multiple camera system, and vehicle sensors which detects vehicles in a designated bus lane and is capable of producing:

a. high resolution color digital recorded images that show: (1) a motor vehicle in a designated bus lane; (2) a motor vehicle unlawfully driving in a bus lane and bus lane sign clearly displayed; and (3) a portion of the rear of the motor vehicle unlawfully driving in the designated bus lane including vehicle's license plate and the make and model of the vehicle are clearly shown; and

b. at least one of the digital color images shall contain the following: (1) the scene of the location where the violation occurred; (2) the violating motor vehicle; (3) the license plate numbers, letters, and issuing jurisdiction; (4) the day, month, and year of the violation; (5) the time of the violation in hours, minutes, and seconds; (6) the frame sequence code. This information shall be imprinted along the bottom or top edge of the image frame so as not to obstruct the violation image; and

c. a video recording of the violation that shows the violation occurring.

C. *Installation.*

1. The City of Newark hereby determines to install and utilize a traffic control bus lane photo enforcement monitoring system along various designated Bus Lanes within the City of Newark.

2. The system to be installed shall be approved by Resolution of the Municipal Council.

3. The City of Newark shall have the authority to enter into a contract, following a lawful procurement process, for the installation of the system.

4. The signs notifying drivers that a system is being utilized shall be approved by the Department of Engineering, and shall be placed on each street converging into the affected intersection as required by the Act. The sign shall be of a design and placed in accordance with specifications approved by the Director of Engineering. The specifications so approved shall conform with the uniform system set forth in the "Manual on Uniform Traffic Control Devices for Streets and Highways."

5. The Department of Engineering shall inspect and certify the system at least once every six (6) months from the date of its installation.

D. *Issuance of the Summonses.* The City of Newark Police Department n/k/a the Department of Public Safety shall review the recorded images produced by the system, to determine whether sufficient evidence exists demonstrating that a violation has occurred and shall issue a summons when appropriate in accordance with the New Jersey Rules of the Court.

E. *Penalties.* See Appendix to Title XXIII, Schedule of Penalties for Violations.

F. *Use of Recorded Images.*

1. Any images produced by such mobile bus lane photo traffic control devices shall not be

used for any other purpose in the absence of a court order requiring such images to be produced.

2. The City of Newark shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians, and cyclists whose identity and identifying information may be captured by a bus lane photo device. Such measures shall include:

i. utilization of necessary technologies to ensure, to the extent practicable, that images produced by such bus lane photo traffic control devices shall not include images that identify the driver, the passengers, or the contents of the vehicle, provided, however, that no notice of liability issued pursuant to this Section shall be dismissed solely because an image allows for the identification of the driver, the passengers or other contents of a vehicle;

ii. a prohibition on the use or dissemination of vehicles' license plate information and other information and images captured by bus lane photo traffic control devices except: (A) as required to establish liability under this Section or collect payment of penalties; (B) as required by court order; or (C) as otherwise required by law;

iii. the installation of signage at regular intervals within restricted bus lanes stating that bus lane photo traffic control devices are being used to enforce restrictions on vehicular traffic in designated Bus Lanes; and

iv. oversight procedures to ensure compliance with the aforementioned privacy protection measures.

3. An imposition of liability pursuant to this Section shall not be deemed a conviction of 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. 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 a bus lane restriction. Personal delivery to 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.

5. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of a bus lane restriction, the registration number of the vehicle involved in such violation, the location where such violation took place including the street address or cross streets, one or more images identifying the violation, the date and time of such violation and the identification number of the bus lane photo device which recorded the violation or other document locator number.

6. 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 warning to advise the persons 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.

7. The notice of liability shall be prepared and mailed by the agency or agencies designated by the City of Newark, or any other entity authorized by such city to prepare and mail such notification of violation.

8. Adjudication of the liability imposed upon owners by this Section shall be by the Newark Parking Violations Bureau.

G. Liability.

1. If an owner of a vehicle receives a notice of liability pursuant to this ordinance for any time period during which 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 a bus lane restriction that the 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 be sent by first class mail to the Parking Violations Bureau of such city.

2. An owner who is a lessor of a vehicle to which a notice of liability was issued shall not be liable for the violation of a bus lane restriction, provided that:

i. Within thirty (30) days after receiving notice from such bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to such bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by such bureau pursuant to regulations that may be promulgated for such purpose.

ii. Where the lessor complies with the provisions of paragraph one of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this Section, shall be subject to liability for such violation pursuant to this Section and shall be sent a notice of liability.

3. If the owner is liable for a violation of a bus lane restriction was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

4. Nothing in this Section shall be construed to limit the liability of an operator of a vehicle for any violation of bus lane restrictions.

H. Use of Recorded Images.

1. Except as otherwise provided in this Section, the recorded images produced by the system shall be available for the exclusive use of the sworn officers of the Newark Police Department n/k/a the Department of Public Safety for the purpose of discharging his or her duties.

2. Any recorded image or information produced in connection with the system shall not be deemed a public record pursuant to the New Jersey Open Public Records Act, *N.J.S.A. 47:1A-1, et seq.*, or New Jersey Common Law right to access to public documents. The recorded images shall

not be: (i) discoverable as a public record by any person, entity, or governmental agency, except upon a subpoena issued by a grand jury or court order in a criminal matter, or (ii) offered as evidence in any civil or administrative proceeding not directly related to a bus lane violation.

3. A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a bus lane photo device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to this Section.

4. Any recorded image or information collected in connection with a bus lane violation shall not be retained after sixty (60) days following the collection of any fine or penalty.

I. Locations.

Bus Lane Photo Enforcement Monitoring Systems shall be installed along the designed exclusive bus lanes as set forth in Title 2, Traffic, Chapter 4, Limiting Use of Streets to Certain Vehicles, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, Sections 23:4-2 and 23:4-3, as may be amended from time to time.

Section 2. The appendix to Title 22, Schedule of Penalties for Violations, is hereby amended to increase bus lane violation penalties from \$35.00 to \$50.00.

Section 3. All other provisions of City Ordinance 2:2-72 et seq., shall remain in effect unless amended herein.

Section 4. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

THIS ORDINANCE AMENDS TITLE XXIII, TRAFFIC, CHAPTER 4, LIMITING USE OF STREETS TO CERTAIN VEHICLES, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, BY ADDING A NEW SECTION 23:4-5 PERMITTING A BUS LANE PHOTO ENFORCEMENT MONITORING SYSTEM, AND INCREASING BUS LANE VIOLATION PENALTIES FROM \$35.00 TO \$50.00.