



NEW YORK STATE SENATOR

Jose Peralta

Senator Jose Peralta and Assemblymember-elect Barnwell Push Bill Requiring City Agencies to Provide Photo Evidence when Issuing Summonses

JOSE PERALTA January 6, 2017

| ISSUE: **PHOTO EVIDENCE**, **PERALTA**, **CITY AGENCIES**

State Senator Jose Peralta and Assemblymember-elect Brian Barnwell today unveiled new legislation requiring City agencies to obtain photographic evidence when issuing summonses for certain civil violations that are reviewed by the New York City Office of Administrative Trials and Hearings (OATH).

City agencies would be mandated to develop a list of violations where photographs typically serve as evidence of a violation. For instance, civil infractions such as those involving the accumulation of garbage on sidewalks, the presence of vermin at eateries, or states of disrepair that violate the New York City Construction Code all lend themselves to proof through the use of photos by enforcement officials. Once a City agency determines that a particular violation should appear on a list of those covered by the legislation, a photograph of the conditions underlying the violation must be obtained. If photographic evidence of a violation is not submitted, enforcement officers will have to indicate the reason why on the face of the summons. Using the website already maintained by OATH, respondents will then have the ability to easily view photographs collected by enforcement officials, should they wish to proceed with an appeal.

“This legislation is about fairness, it is about transparency,” said **Sen. Peralta**. “Again, this is another example of how government can catch up to technology. New Yorkers already document everyday life situations with their cell phones or other electronic devices. There is no reason that enforcement officers cannot have proof of a violation by snapping a quick photo with a cell phone or a tablet.”

The legislation will preserve New Yorkers' ability to appeal summonses, while also safeguarding the City's law enforcement goals and pecuniary interests, when a valid summons has been issued. “While justice dictates that respondents should have the ability to ascertain the nature of evidence against them, it is also important that the City is able to prove its case and uphold a summons when it has been properly issued,” said Senator Peralta. “The use of photographic evidence will level the playing field, and allow all parties to accurately address the substance of cases appearing before the OATH tribunals.”

City agencies covered by the bill will be responsible for establishing internal procedures relative to the collection of photographic evidence to document violations that fall under their jurisdiction.

During Fiscal Year 2016, the Hearing Division of the Environmental Control Board of OATH reviewed more than 700,000 summonses. However, 406,914 of the summonses, or 58.1%, were dismissed. During that period, one City agency, the Department of Sanitation, issued approximately 463,000 tickets for infractions such as the posting of leaflets on car windshields, the failure to recycle, and the removal of snow and ice from sidewalks.

“My bill will focus on improving the quality of summonses issued. With the use of photographic evidence, summonses may be more difficult to challenge for respondents, but it is also my hope that the City will sharply reduce the number of summonses issued improperly.” said Senator Peralta. “There is simply no reason for these matters to continue to

be adjudicated by a legal standard of 'he said, she said.'"

Assemblymember-elect Barnwell (D-Woodside) said, "I'm proud to sponsor this bill in the Assembly that will grant New Yorkers more transparency from their government. When individuals receive citations, they should receive photographic evidence detailing their alleged violation. People will now have the ability to see the evidence alleged against them. This bill will promote transparency and justice. I want to thank Senator Peralta for leading on this issue in the Senate."