

## **RIGHTS AND WARNINGS FOR TRAFFIC VIOLATIONS**

The following rights and warnings apply to persons charged with traffic infractions (this does not include misdemeanors or felonies). Proceedings are recorded. If you have any questions, you must ask the judge.

1. **ATTORNEY:** You have the right to be represented by an attorney at every stage of your case. Tell the Judge if you want help contacting an attorney.
2. **SUPPORTING DEPOSITION:** You have the right to a “supporting deposition.” A supporting deposition is a sworn statement by the officer who gave you the ticket and it will give you additional facts about your case.
3. **ADJOURNMENT:** If you want to speak with an attorney or you want a supporting deposition or you want a delay for any legitimate reason, the court will adjourn the case until another date when you will return to enter your plea of “guilty” or “not guilty.”
4. **PLEA OF “GUILTY”:** If you plead “guilty,” it will be treated the same as if you were convicted after a trial. The same possible penalties apply. This conviction of the New York Vehicle and Traffic Law, in combination with any you have from the past or receive in the future, could result in your New York driver's license and vehicle registration being suspended or revoked by the Department of Motor Vehicles. If you have a non-New York driver's license, then your “New York driving privileges” could be suspended or revoked.
6. **PLEA OF “NOT GUILTY”:** If you plead “not guilty,” the case will be scheduled for a trial at a later date. You may present evidence. You also have the right to remain silent, and your silence cannot be used against you. In order to be convicted, the prosecution (the People) must prove that you are guilty “beyond a reasonable doubt.”

Today at your arraignment you will be asked the following questions:

- Do you have any questions?
- Do you want a delay so you can speak with an attorney?
- Do you want a delay so you can be sent a supporting deposition?
- How do you plead to each charge? (“Guilty” or “Not Guilty”)

### **Answers to some common questions. Ask the judge for further information.**

**Q How many points can cause me to lose my driver's license?**

**A** *If you get 11 points (or 3 speeding convictions) within an 18 month span, then the NY Dep't of Motor Vehicles will take your New York driver's license. If you have a non-New York license, you will lose your “privilege to drive in New York,” and the New York DMV will notify your home state. Your home state will probably take away your driver's license. The NY Dep't of Motor Vehicles, not the Court, controls the number of points assessed.*

**Q Can I reduce points by taking a course?**

**A** You can reduce as many as 4 points by taking a Defensive Driving course if you have not already taken the course in the past 18 months. The courses can be found in the yellow pages of the phone book under "Driving Instruction" and usually cost around \$40. Your insurance company must reduce your insurance premium by 10% for 3 years. Check with the NY Dep't of Motor Vehicles to be sure the points have already been put on your driver's license record before you take the course.

**Q What is the fine/surcharge/jail/point structure for common traffic offenses?**

**A** The following is just a brief summary of some common offenses. Ask the judge for more detail.

| <u>CHARGE</u>                          | <u>MIN. FINE</u> | <u>MAX. FINE</u> | <u>MAX. JAIL</u> | <u>SUR-CHARGE</u> | <u>DMV PNTS.</u> |
|--|------------------|------------------|------------------|-------------------|------------------|
| <u>Speeding</u> (11-20 mph over limit) | \$90             | \$675            | 30 days          | \$55              | 4                |
| (21-30 mph over limit)                 | \$90             | \$675            | 30 days          | \$55              | 6                |
| (31-39 mph over limit)                 | \$180            | \$975            | 30 days          | \$55              | 8                |

Speeding in School Zone Double the min. + max. fines above. The rest stays the same.

Fail to Obey a Traffic Control Device \$ 0 \$450 90 days \$55 2

Stop Sign \$ 0 \$150 90 days \$55 3

No Insurance \$150 \$1500 180 days \$55 0  
(+ 1 year license revocation and \$750 civil fee by DMV)

No Inspection \$ 0 \$450 90 days \$55 0

**Q What is a "surcharge?"**

**A** It is a fee that the State requires the Court to assess and collect for most violations. The NY Dep't of Motor Vehicles, not the Court, controls the amount of the surcharge.

**Q What is the "Driver Responsibility Assessment" fee?**

**A** In addition to the penalties mentioned above, the New York Dep't of Motor Vehicles charges \$100 / year for 3 years against defendants who accumulate 6 or more points during an 18 month span. It also adds \$25 per year for every point over 6. If a defendant is convicted of a drug or alcohol offense or refuses an alcohol test, then \$250 is collected every year for 3 years. The NY Dep't of Motor Vehicles, not the Court, collects and determines these fees.

**Q What can happen if one does not appear in court or pay the fine/surcharge as ordered?**

**A** The NY Dep't of Motor Vehicles will suspend the defendant's driver's license/privilege. The Court may also issue a warrant for the defendant's arrest.