

5013

2011-2012 Regular Sessions

I N S E N A T E

May 2, 2011

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to prohibiting the operation of horse drawn cabs in the city of New York; and repealing certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions (c), (g) and (i) of section 17-326 of the
2 administrative code of the city of New York are amended to read as
3 follows:
4 (c) "Work", a horse is considered to be at work when it is out of its
5 stable and presented to the public as being available for riding[, pull-
6 ing carriages, vehicles or other devices,] or when it is saddled or in
7 harness or when it is being ridden [or is pulling a carriage, vehicle or
8 device].
9 (g) "Rental horse business" means a business enterprise which provides
10 or offers the use of a horse to the public for a fee for the purpose of
11 riding [or drawing a horse drawn vehicle or which operates a horse drawn
12 vehicle for hire such as a horse drawn cab].
13 (i) "Under tack" means that a horse is equipped for riding [or driv-
14 ing].
15 S 2. The administrative code of the city of New York is amended by
16 adding a new section 17-326.1 to read as follows:
17 S 17-326.1 CARRIAGE RIDES PROHIBITED. IT SHALL BE UNLAWFUL TO OFFER
18 RIDES TO THE PUBLIC ON A VEHICLE DRAWN OR PULLED BY A CARRIAGE HORSE.
19 S 3. Subdivisions a and d of section 17-327 of the administrative code
20 of the city of New York, subdivision d as amended by local law number 22
21 of the city of New York for the year 2002, are amended to read as
22 follows:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 a. On and after January first, nineteen hundred eighty-two no person
2 shall use or offer the use of a horse in a rental horse business unless
3 such horse is licensed pursuant to the provisions of this subchapter.
4 For purposes of this subchapter the use of a horse in a rental horse
5 business means that a horse is used or offered for use by the public for
6 a fee for the purpose of riding [or drawing a horse drawn vehicle or is
7 used in the operation of a horse drawn vehicle for hire such as a horse
8 drawn cab].

9 d. Application for a license or the renewal of a license shall be made
10 to the department of health and mental hygiene. Such application shall
11 contain the name and address of the owner of the horse and of the owner
12 of the rental horse business in which such horse is to be used if such
13 person is not the owner of the horse, the age, sex, color, markings and
14 any other identifying marks such as brands or tattoos of the horse, the
15 location of the stable where the horse is to be kept and any other
16 information which the commissioner of health and mental hygiene may
17 require. [An application with respect to a horse which is used in the
18 operation of a "horse drawn cab" as defined in subchapter twenty-one of
19 chapter two of title twenty of this code shall include the identifica-
20 tion number required to be inscribed on such horses hoof pursuant to the
21 rules and regulations of the department of consumer affairs.] The appli-
22 cation shall be accompanied by the license or renewal fee.

23 S 4. Section 17-329 of the administrative code of the city of New York
24 is amended to read as follows:

25 S 17-329 Disposition of licensed horse. A. The department shall be
26 notified of the transfer of ownership or other disposition of a licensed
27 horse within [ten] FIVE days thereafter. Such notice shall include the
28 date of disposition and [if sold in New York city,] the name and address
29 of the buyer or other transferee and such other information as the
30 commissioner may prescribe.

31 B. A horse shall not be sold or disposed of except in a humane
32 manner[.], WHICH, FOR THE PURPOSES OF THIS SUBCHAPTER SHALL MEAN ONE OF
33 THE FOLLOWING:

34 1. THE OWNER SHALL SELL OR DONATE THE HORSE TO A PRIVATE INDIVIDUAL
35 WHO SIGNS AN ASSURANCE THAT THE HORSE WILL NOT BE SOLD AND SHALL BE KEPT
36 SOLELY AS A COMPANION ANIMAL AND NOT EMPLOYED IN ANOTHER HORSE-DRAWN
37 CARRIAGE BUSINESS OR AS A WORK HORSE AND WILL BE CARED FOR HUMANELY FOR
38 THE REMAINDER OF THE HORSE'S NATURAL LIFE; OR

39 2. THE OWNER SHALL SELL OR DONATE THE HORSE TO A DULY INCORPORATED
40 ANIMAL SANCTUARY OR DULY INCORPORATED ANIMAL PROTECTION ORGANIZATION
41 WHOSE PRESIDENT OR EXECUTIVE DIRECTOR SIGNS AN ASSURANCE THAT THE HORSE
42 WILL NOT BE SOLD AND SHALL BE KEPT SOLELY AS A COMPANION ANIMAL AND NOT
43 EMPLOYED IN ANOTHER HORSE-DRAWN CARRIAGE BUSINESS OR AS A WORK HORSE AND
44 WILL BE CARED FOR HUMANELY FOR THE REMAINDER OF THE HORSE'S NATURAL
45 LIFE.

46 3. RECORDS INDICATING THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE
47 PRIVATE INDIVIDUAL, DULY INCORPORATED ANIMAL SANCTUARY OR DULY INCORPO-
48 RATED ANIMAL PROTECTION ORGANIZATION TO WHOM THE HORSE WAS SOLD OR
49 DONATED TOGETHER WITH THE ASSURANCE SPECIFIED ABOVE SHALL BE SENT BY THE
50 OWNER TO THE DEPARTMENT WITHIN FIVE DAYS AFTER SUCH SALE OR DONATION. A
51 COPY OF SUCH RECORD SHALL ALSO BE MAINTAINED AT THE STABLE.

52 S 5. Subdivisions g, h and l of section 17-330 of the administrative
53 code of the city of New York, subdivisions g and l as amended by local
54 law number 10 of the city of New York for the year 2010, and subdivision
55 h as added by local law number 2 of the city of New York for the year
56 1994, are amended to read as follows:

1 g. [1. Carriage horses shall not be at work for more than nine hours
2 in any continuous twenty-four hour period.] Riding horses shall not be
3 at work for more than eight hours in any continuous twenty-four hour
4 period. Rest periods for [carriage horses and] riding horses shall be of
5 such duration and at such intervals as the commissioner shall
6 prescribe[, but rest periods for carriage horses shall in no event be
7 for less than fifteen minutes after each two hour working period, and
8 the time of such rest period shall be included in calculating the number
9 of hours the horse has worked in any twenty-four hour period. During
10 such rest periods, the person in charge of such carriage horses shall
11 make fresh water available to the horse.

12 2. Carriage horses shall receive no less than five weeks of vacation
13 or furlough every twelve months at a horse stable facility which allows
14 daily access to paddock or pasture turnout. Proof of such vacation or
15 furlough shall be provided upon request to the department and/or the
16 ASPCA].

17 h. [Carriage horses shall not be driven at a pace faster than a trot.]
18 Riding horses may be ridden at a canter but shall not be galloped.

19 1. An owner of a rental horse business shall keep such records as the
20 commissioner of health shall prescribe including but not limited to a
21 consecutive daily record of the movements of each licensed horse includ-
22 ing the [driver's name and identification number, if applicable,]
23 rider's name, the horse's identification number, [vehicle license plate
24 number, if applicable,] time of leaving stable and time of return to
25 stable. An owner of a rental horse business shall also keep written
26 protocols for emergencies, including but not limited to primary and
27 secondary emergency contact information for each horse owner and insur-
28 ance company information, if applicable. Such records shall be kept on
29 the premises of the stable where the horses are kept and shall be avail-
30 able for inspection. The commissioner may, in his or her discretion,
31 require a time clock, date stamp or time stamp where such commissioner
32 believes it is appropriate.

33 S 6. Subdivisions o and p of section 17-330 of the administrative code
34 of the city of New York are REPEALED.

35 S 7. Paragraph 1 of subdivision a of section 17-331 of the administra-
36 tive code of the city of New York is amended to read as follows:

37 1. Two members shall be appointed from among the owners of rental
38 horse businesses operating within the city[, one of whom shall be repre-
39 sentative of the interests of owners of riding horses and one of whom
40 shall be representative of the interests of owners of carriage horses].

41 S 8. Subdivision a of section 17-334 of the administrative code of the
42 city of New York is REPEALED and subdivisions b and c are relettered
43 subdivisions a and b.

44 S 9. Section 17-334.1 of the administrative code of the city of New
45 York is REPEALED.

46 S 10. Sections 19-174 and 19-175 of the administrative code of the
47 city of New York are REPEALED.

48 S 11. Section 20-371 of the administrative code of the city of New
49 York, as amended by local law number 31 of the city of New York for the
50 year 1995, is amended to read as follows:

51 S 20-371 Licensing of sight-seeing buses[, horse drawn cabs and horse
52 drawn cab drivers]. Legislative findings. The legislative findings here-
53 tofore made in relation to the business of sight-seeing buses [and horse
54 drawn cabs] in the city of New York and set forth in local law number
55 ten of nineteen hundred sixty-four continue to be valid; such businesses
56 are vested with a public interest and their regulation and control

1 continue to be necessary and essential in order to cope with certain
2 evils and hazards which existed in the absence of governmental super-
3 vision. The supervision formerly was reposed in the police commissioner,
4 but recent experience and study indicate that jurisdiction over such
5 businesses should be transferred to the commissioner. [It is further
6 found that the present number of horse drawn cabs licensed in the city
7 of New York is adequate to meet the public need and demand and should be
8 preserved, unless the commissioner finds that additional licenses are
9 necessary and advisable.]

10 S 12. Subdivisions 1 and 3 of section 20-372 of the administrative
11 code of the city of New York, as amended by local law number 31 of the
12 city of New York for the year 1995, are amended to read as follows:

13 1. "Owner" shall include any person, firm, partnership, corporation or
14 association owning and operating a sight-seeing bus or buses, [or horse
15 drawn cab or cabs,] and shall include a purchaser under a reserve title
16 contract, conditional sales agreement or vendor's agreement and the
17 lessee of such vehicle or vehicles under a written lease or similar
18 contract provided such purchaser or lessee of sight-seeing bus or buses
19 shall be entitled to obtain in his or her name a license or licenses
20 therefor from the commissioner of motor vehicles of the state of New
21 York.

22 3. "Inspection card" shall designate the card issued by the commis-
23 sioner for the sight-seeing bus licensed [or horse drawn cab licensed],
24 which card shall display the license number and capacity of such vehi-
25 cle.

26 S 13. Subdivisions 5, 6, 7 and 8 of section 20-372 of the administra-
27 tive code of the city of New York are REPEALED and subdivisions 9 and 10
28 are renumbered subdivisions 5 and 6.

29 S 14. Subdivisions a and b of section 20-373 of the administrative
30 code of the city of New York are amended to read as follows:

31 a. It shall be unlawful to operate or permit another to operate for
32 hire a sight-seeing bus [or horse-drawn cab] within the city unless the
33 owner shall have first obtained a license therefor from the commission-
34 er. [An applicant for a horse-drawn cab license shall be at least eigh-
35 teen years of age.]

36 b. Fees. The original and renewal license fee for each sight-seeing
37 bus shall be fifty dollars [and for each horse-drawn cab shall be fifty
38 dollars].

39 S 15. Subdivisions c and d of section 20-373 of the administrative
40 code of the city of New York are REPEALED.

41 S 16. Subdivisions a and b of section 20-374 of the administrative
42 code of the city of New York are amended to read as follows:

43 a. Any person, firm, partnership, corporation or association, owning
44 or operating a sight-seeing bus, or buses[, or horse-drawn cab, or cabs]
45 engaging in the business of transporting passengers in, about, over and
46 upon any of the streets, avenues, bridges, highways, boulevards or
47 public places within the limits of the city of New York, shall be issued
48 a license for each bus [or cab] so operating, provided, however any such
49 person, firm, partnership, corporation or association owning or operat-
50 ing a sight-seeing bus or buses, shall first have obtained a license or
51 licenses, as he or she shall be entitled to receive from the commission-
52 er of motor vehicles of the state of New York as made and provided by
53 law.

54 b. It shall be unlawful for a license, after being issued by the
55 commissioner, to be transferred to any person, firm, partnership, corpo-
56 ration or association for any cause whatsoever[, except that licenses

1 for horse-drawn cabs may be transferred with the approval of the commis-
2 sioner. Upon voluntary sale or transfer of a licensed horse-drawn cab by
3 the holder of a license or his or her legal representative, the licensee
4 shall immediately notify the commissioner of his or her intention to
5 replace such horse-drawn cab, or shall surrender his or her license. If
6 the license is surrendered, the vendee or transferee may make applica-
7 tion to the commissioner for the licensing of the horse-drawn cab so
8 purchased. A new license shall then be issued by the commissioner in
9 place of the license so surrendered, provided the applicant has demon-
10 strated to the satisfaction of the commissioner that he or she is quali-
11 fied to assume the duties and obligations of a horse-drawn cab license].

12 S 17. Subdivision c of section 20-374 of the administrative code of
13 the city of New York is REPEALED.

14 S 18. Section 20-375 of the administrative code of the city of New
15 York, as amended by local law number 2 of the city of New York for the
16 year 1994, is amended to read as follows:

17 S 20-375 License plate. Upon the payment of the license fee the
18 commissioner shall issue a license to the owner of the sightseeing bus
19 [or horse drawn cab] together with a license plate to be securely
20 affixed to a conspicuous and indispensable part of such sightseeing bus
21 [or securely and conspicuously affixed to the rear axle of such horse
22 drawn cab,] on which shall be clearly set forth the license number of
23 such sightseeing bus [or horse drawn cab]. The license plate issued to
24 the licensee may, in the discretion of the commissioner, be a plate of a
25 permanent nature with a replaceable date tag attached thereto, indicat-
26 ing the expiration date of the plate during each license year and the
27 issuance of such a plate with such date tag to a person possessing such
28 a plate, shall be deemed issuance of a license plate. Such license plate
29 and the replaceable date tag to be issued from year to year to be
30 attached thereto, shall be of such material, form, design and dimension
31 and set forth such distinguishing number or other identification marks
32 as the commissioner shall prescribe. The commissioner upon renewal of
33 the license hereunder, may continue the use of the license plate for as
34 many additional license years as he or she in his or her discretion may
35 determine, in which event he or she shall issue and deliver to the
36 licensee a replaceable date tag as evidence of renewal of the license,
37 which shall be attached or affixed in such manner as he or she may
38 prescribe by rule. The failure to affix or display such date tag in a
39 manner prescribed by the commissioner shall constitute a violation of
40 this section. In the event of the loss, mutilation or destruction of any
41 license plate or date tag issued hereunder, the owner may file such
42 statement and proof of facts as the commissioner shall require, with a
43 fee of twenty-five dollars, at the department, and the department shall
44 issue a duplicate or substitute license plate or date tag.

45 S 19. Sections 20-377 and 20-377.1 of the administrative code of the
46 city of New York are REPEALED.

47 S 20. Section 20-378 of the administrative code of the city of New
48 York is amended to read as follows:

49 S 20-378 Periodic inspection. The license department shall cause all
50 sight-seeing buses [and horse-drawn cabs] now, or hereafter licensed, to
51 be inspected at least once every four months. The date of such
52 inspection and the signature of the person making the inspection shall
53 be recorded upon the inspection card in the spaces provided therefor.

54 S 21. Section 20-379 of the administrative code of the city of New
55 York is amended to read as follows:

1 S 20-379 Form of inspection card. The commissioner shall prescribe an
2 appropriate form of inspection card for sight-seeing buses [and horse-
3 drawn cabs] and the manner in which such card and the sight-seeing bus
4 driver's [and horse-drawn cab driver's] identification cards shall be
5 displayed.

6 S 22. Sections 20-380, 20-381, 20-381.1, 20-381.2 and 20-382 of the
7 administrative code of the city of New York are REPEALED.

8 S 23. Section 20-383 of the administrative code of the city of New
9 York, as amended by local law number 2 of the city of New York for the
10 year 1994, the section number, the section heading and subdivision a as
11 amended by local law number 41 of the city of New York for the year
12 2005, is amended to read as follows:

13 S 20-383 Suspensions and revocations. [a.] After notice and opportu-
14 nity to be heard, the commissioner may suspend or revoke any sight-see-
15 ing bus license where the holder has failed to comply with any
16 provisions of this subchapter or of the rules promulgated thereunder, or
17 with any other laws or rules governing sight-seeing buses, or which
18 sight-seeing bus is otherwise found to be unfit for operation. Such
19 suspension shall remain in effect until compliance and fitness have been
20 established by the licensee and accepted by the department. Grounds for
21 suspension or revocation shall include, but not be limited to, installa-
22 tion of an engine which does not meet the requirements of subdivision b
23 of section 20-376 of this subchapter, being found to have violated the
24 requirements for diesel fuel-powered sight-seeing buses contained in
25 section 24-163.6 of the administrative code, failure to submit a bus for
26 inspection, installation of an engine not covered by a certificate of
27 conformity in a vehicle which was originally manufactured with such an
28 engine and installation of an engine of any model year preceding the
29 year of manufacture in a vehicle which was originally manufactured with
30 an engine covered by a certificate of conformity.

31 [b. Any driver of a horse drawn cab found to have committed within any
32 twelve-month period, in the aggregate, at least three violations of this
33 subchapter shall have his or her license suspended by the commissioner
34 for a period of not less than three months. For purposes of this subdivi-
35 sion, all violations written on any one day shall constitute a single
36 violation.

37 c. Notwithstanding the provisions of subdivision b of this section,
38 any driver of a horse drawn cab found to have committed within any twenty-
39 four month period, in the aggregate, at least five violations of this
40 subchapter shall have his or her license suspended by the commissioner
41 for six months. For purposes of this subdivision, all violations written
42 on any one day shall constitute a single violation.

43 d. Notwithstanding the provisions of subdivisions b and c of this
44 section, any driver of a horse drawn cab found guilty of one violation
45 of subdivision d of section 20-381.1 of the code or sections three
46 hundred fifty-one, three hundred fifty-three, three hundred fifty-five
47 through three hundred sixty-two or three hundred sixty-nine of the New
48 York state agriculture and markets law or who is found guilty of a
49 violation of this subchapter while his or her license is suspended,
50 shall have his or her license revoked. A driver whose license has been
51 revoked in accordance with this provision may not apply for a new
52 license for five years from the date of revocation.]

53 S 24. This act shall take effect on the one hundred eightieth day
54 after it shall have become a law.