S T A T E O F N E W Y O R K

2012

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. BENJAMIN -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the registering of the pedicab industry

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

Section 1. The vehicle and traffic law is amended by adding a new section 130-b to read as follows:

S 130-B. PEDICAB. A TWO OR MORE WHEELED DEVICE UPON WHICH A PERSON OR PERSONS MAY RIDE, PROPELLED BY HUMAN POWER THROUGH A BELT, A CHAIN OR GEARS, WITH SUCH WHEELS IN A TANDEM OR TRICYCLE, USED IN THE BUSINESS OF TRANSPORTING PASSENGERS FOR COMPENSATION.

S 2. The subdivision heading, the opening paragraph, and schedule C of subdivision 7 of section 401 of the vehicle and traffic law, as amended by chapter 55 of the laws of 1992, are amended to read as follows:

Registration fees for auto trucks, tractors, buses, taxicabs, PEDICABS, livery and certain other motor vehicles. The registration fees to be paid upon the registration or reregistration, in accordance with the provisions of this article, of buses, of motor vehicles constructed or specially equipped for the transportation of goods, wares and merchandise, commonly known as auto trucks or light delivery cars, of taxicabs, PEDICABS, livery and of certain other motor vehicles specified herein are hereby established as follows:

C. Schedule for taxicabs, PEDICABS and livery. For each taxicab, PEDICAB or livery having a seating capacity for passengers, excluding the driver, of five persons or less, the annual fee of twenty-five dollars and thirty cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of not less than six persons, nor more than seven persons, the annual fee of forty-one dollars and forty cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of at least eight persons, but not more than ten

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

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persons, the annual fee of fifty-one dollars and seventy-five cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of at least eleven persons, but not more than fourteen persons, the annual fee of seventy-three dollars and sixty cents. Any registration issued pursuant to this schedule shall be revoked upon receipt by the commissioner of a notice of revocation of any license or permit necessary for the issuance of such registration from the local authority which issued such license or permit, or upon receipt of evidence by the commissioner that the registrant has been convicted of a violation of any local law requiring the issuance of a license or permit in order to engage in for-hire operation. Provided, however, that upon surrender to the commissioner of any such revoked registration and number plates and upon payment of the proper registration fee, a registration may be issued for the vehicle for which such registration has been revoked pursuant to the provisions of subdivision six of this section.

S 3. The vehicle and traffic law is amended by adding a new section 498-a to read as follows:

S 498-A. PEDICAB OPERATION. 1. PERMIT. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, WHERE A CITY WITH A POPULATION OF ONE MILLION OR MORE REQUIRES THE LICENSING OF A MOTOR VEHICLE USED TO PICK UP ONE OR MORE PASSENGERS IN SUCH CITY FOR-HIRE, SUCH CITY SHALL ISSUE A PERMIT FOR PEDICAB OPERATION, PROVIDED THAT THE TRANSPORTATION PROVIDED BY SUCH PEDICAB DRIVER COMPLIES WITH THE REQUIREMENTS OF FOR-HIRE VEHICLES AND ANY SAFETY REGULATIONS PROMULGATED BY AN AGENCY DESIGNATED BY SUCH CITY AND PROVIDED FURTHER THAT THE OWNER OF SUCH PEDICAB IS THE HOLDER OF A VALID REGISTRATION ISSUED BY THE COMMISSIONER FOR WHICH A REGISTRATION FEE HAS BEEN PAID PURSUANT TO SCHEDULE C OF SUBDIVISION SEVEN OF SECTION FOUR HUNDRED ONE OF THIS TITLE.

2. ISSUANCE AND RENEWAL OF PERMIT. SUCH CITY SHALL ISSUE OR RENEW SUCH PERMIT FOR EACH PEDICAB DRIVER PROVIDED THAT, IN ADDITION TO THE CONDITIONS DESCRIBED IN SUBDIVISION ONE OF THIS SECTION: (A) THE APPLICANT PAYS AN ANNUAL FEE FOR EACH PERMIT OF FIFTEEN DOLLARS;

(B) THE PEDICAB SHALL BE DRIVEN ONLY BY THE HOLDER OF SUCH PERMIT WHICH IS VALID FOR THE FOR-HIRE OPERATION OF THE PEDICAB IN THIS STATE;

(C) SUCH DRIVER HAS SUCCESSFULLY COMPLETED THE LIVERY VEHICLE SAFETY TRAINING PROGRAM AS PROVIDED BY SECTION EIGHT HUNDRED THIRTY-SEVEN-H OF THE EXECUTIVE LAW OR SUCH OTHER SAFETY TRAINING PROGRAM AS PROVIDED AND REQUIRED BY THE AGENCY DESIGNATED BY SUCH CITY;

(D) SUCH DRIVER HAS BEEN FINGERPRINTED FOR THE PURPOSE OF SECURING AND REVIEWING HIS OR HER CRIMINAL HISTORY RECORDS;

(E) THE APPLICANT HAS COMPLIED WITH ANY REQUIREMENTS OF SUCH CITY TO OBTAIN A LICENSE FOR THE OPERATION OF TWO-WAY RADIO OR OTHER COMMUNICATION SYSTEMS USED FOR DISPATCHING OR CONVEYING INFORMATION TO DRIVERS OF FOR-HIRE VEHICLES, PROVIDED THAT IN NO EVENT SHALL THE APPLICANT BE REQUIRED TO PAY A FEE FOR SUCH LICENSE; AND

(F) THE APPLICANT HAS NOT HAD A PERMIT REVOKED OR HAS NOT BEEN REFUSED RENEWAL OF A PERMIT PURSUANT TO SUBDIVISION SIX OR SEVEN OF THIS SECTION.

ANY SUCH PERMIT ISSUED BY SUCH CITY SHALL BE VALID ONLY WHILE THE REGISTRATION OF THE PEDICAB REMAINS VALID.

3. INSPECTION. ALL PEDICABS THAT RECEIVE A PERMIT FROM SUCH CITY PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE INSPECTED AT OFFICIAL INSPECTION STATIONS LICENSED BY THE COMMISSIONER PURSUANT TO THE REGULATIONS OF THE COMMISSIONER. SUCH CITY MAY CONDUCT ON-STREET INSPECTIONS OF SUCH PEDICABS. AN OWNER SHALL BE ORDERED BY SUCH CITY TO

REPAIR OR REPLACE THE PEDICAB FOR WHICH SUCH PERMIT WAS ISSUED WHERE IT APPEARS THAT IT NO LONGER MEETS THE REASONABLE STANDARDS FOR SAFE OPERATION PRESCRIBED BY REGULATIONS OF AN AGENCY DESIGNATED BY SUCH CITY. UPON FAILURE OF SUCH OWNER TO HAVE HIS OR HER MOTOR VEHICLE INSPECTED OR TO COMPLY WITH ANY SUCH ORDER OF SUCH CITY WITHIN TEN DAYS AFTER SERVICE THEREOF, THE PERMIT SHALL BE SUSPENDED. UPON FAILURE OF SUCH OWNER TO COMPLY WITH ANY SUCH ORDER OF SUCH CITY WITHIN ONE HUNDRED TWENTY DAYS AFTER SERVICE THEREOF, THE PERMIT MAY, AT THE DISCRETION OF SUCH CITY, BE DEEMED TO HAVE BEEN ABANDONED BY SUCH OWNER.

4. USE OF PERMIT. THE PERMIT ISSUED BY SUCH CITY SHALL BE IN SUCH FORM AND BE DISPLAYED ON THE PEDICAB FOR WHICH IT IS ISSUED IN SUCH MANNER AS AN AGENCY DESIGNATED BY SUCH CITY SHALL PRESCRIBE BY REGULATION.

5. CIVIL PENALTIES FOR VIOLATIONS. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, VIOLATIONS OF ANY OF THE PROVISIONS OF THIS SECTION OR OF ANY REGULATIONS PROMULGATED BY AN AGENCY DESIGNATED BY SUCH CITY SHALL BY ADJUDICATED BY AN ADMINISTRATIVE TRIBUNAL OF AN AGENCY AUTHORIZED PURSUANT TO THE CHARTER OF SUCH CITY TO ADJUDICATE VIOLATIONS OF LOCAL LAWS, RULES AND REGULATIONS PERTAINING TO FOR-HIRE VEHICLES AS IF IT WERE A VIOLATION RELATING TO FOR-HIRE VEHICLES, PROVIDED, HOWEVER, THAT THE CIVIL PENALTIES IMPOSED BY SUCH ADMINISTRATIVE TRIBUNAL SHALL BE THE CIVIL PENALTIES PROVIDED IN THIS SUBDIVISION. JUDGMENTS BASED ON SUCH ADJUDICATIONS MAY BE ENTERED AND ENFORCED WITHOUT COURT PROCEEDINGS IN ACCORDANCE WITH THE PROVISIONS OF SUCH CHARTER PERTAINING TO THE ENFORCEMENT OF JUDGMENTS RELATING TO FOR-HIRE VEHICLES.

6. FALSE STATEMENTS. IF ANY SUCH CITY, AFTER REVIEWING AN APPLICATION FOR A PERMIT AND AFTER APPROPRIATE INVESTIGATION OR HEARING AFFORDING THE APPLICANT AN OPPORTUNITY TO BE HEARD, FINDS THAT THE APPLICANT MADE A MATERIAL FALSE STATEMENT OR CONCEALED A MATERIAL FACT IN CONNECTION WITH SUCH APPLICATION, SUCH CITY MAY DENY ISSUANCE OF THE PERMIT OR MAY REFUSE TO RENEW, OR MAY SUSPEND OR REVOKE ANY SUCH PERMIT.

7. REVOCATION AND REFUSAL TO RENEW BASED ON PAST VIOLATIONS. WHERE THE HOLDER OF A PERMIT ISSUED PURSUANT TO THIS SECTION HAS BEEN FOUND TO HAVE COMMITTED TWO OR MORE VIOLATIONS OF ANY OF THE PROVISIONS OF THIS SECTION WITH RESPECT TO A PARTICULAR PEDICAB WITHIN A TWELVE MONTH PERIOD, SUCH CITY MAY REVOKE OR REFUSE TO RENEW THE PERMIT FOR SUCH PEDICAB AS WELL AS THE PERMIT OR PERMITS ISSUED PURSUANT TO THIS SECTION FOR OTHER PEDICABS OWNED OR OPERATED BY SUCH HOLDER.

8. EFFECT OF APPLICATION OR ISSUANCE ON DOING BUSINESS OR OTHER MONETARY ASSESSMENT. NO PERSON WHO APPLIES FOR A PERMIT OR TO WHOM A PERMIT IS ISSUED SHALL, SOLELY BY VIRTUE OF HAVING APPLIED FOR SUCH PERMIT OR HAVING BEEN ISSUED SUCH PERMIT, BE DEEMED TO BE DOING BUSINESS WITHIN SUCH CITY IF SUCH PERSON WOULD NOT HAVE BEEN DEEMED TO BE DOING BUSINESS HAD HE OR SHE NOT APPLIED FOR OR RECEIVED SUCH PERMIT. NO PERSON WHO HAS APPLIED FOR SUCH PERMIT OR TO WHOM A PERMIT IS ISSUED SHALL, SOLELY BY VIRTUE OF HAVING APPLIED FOR SUCH PERMIT OR HAVING BEEN ISSUED SUCH PERMIT, BE SUBJECT TO ANY FEE, TAX, ASSESSMENT, OR THE LIKE, OTHER THAN THE FEE IMPOSED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, FOR WHICH SUCH PERSON WOULD NOT HAVE BEEN LIABLE HAD HE OR SHE NOT APPLIED FOR OR RECEIVED SUCH PERMIT. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO EXEMPT ANY PERSON FROM ANY FEE, TAX, ASSESSMENT OR THE LIKE OF SUCH CITY TO WHICH SUCH PERSON IS OTHERWISE SUBJECT.

9. REGULATIONS. AN AGENCY DESIGNATED BY SUCH CITY IS AUTHORIZED TO PROMULGATE SUCH REGULATIONS AS MAY BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that effective immediate-

ly, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.