

5427

2009-2010 Regular Sessions

I N S E N A T E

May 4, 2009

Introduced by Sens. AUBERTINE, STACHOWSKI, VALESKY, WINNER, YOUNG -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the highway law, in relation to limited use highways; and to repeal section 205-a of such law relating to seasonal limited use highways

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

1 Section 1. Section 205-a of the highway law is REPEALED and a new
2 section 205-a is added to read as follows:
3 S 205-A. LIMITED USE HIGHWAYS. 1. SEASONAL LIMITED USE HIGHWAY. A
4 SEASONAL LIMITED USE HIGHWAY SHALL BE A TOWN HIGHWAY WITHOUT AN OPERAT-
5 ING FARM CENTER, RESIDENCE APPROVED FOR YEAR-ROUND OCCUPANCY OR COMMER-
6 CIAL BUILDING DEPENDENT UPON SUCH HIGHWAY FOR ACCESS ON WHICH THE TOWN
7 MAY TEMPORARILY DISCONTINUE SNOW AND ICE REMOVAL, AND MAINTENANCE FOR A
8 DESIGNATED PERIOD. THE TOWN SUPERINTENDENT IS AUTHORIZED TO ANNUALLY
9 DESIGNATE, ON OR BEFORE THE FIRST DAY OF NOVEMBER, A TOWN HIGHWAY, OR
10 PORTION THEREOF, AS A SEASONAL LIMITED USE HIGHWAY, AND TO TEMPORARILY
11 DISCONTINUE SNOW AND ICE REMOVAL AND MAINTENANCE ON SUCH HIGHWAY OR
12 PORTION THEREOF SO DESIGNATED FROM THE FIRST DAY OF DECEMBER UNTIL THE
13 FIRST DAY OF APRIL. ALL SEASONAL LIMITED USE HIGHWAYS SHALL BE APPROPRI-
14 ATELY POSTED IN ACCORDANCE WITH TITLE SEVENTEEN OF THE NEW YORK STATE
15 CODES, RULES AND REGULATIONS.
16 2. MINIMUM MAINTENANCE LIMITED USE HIGHWAY. A. A MINIMUM MAINTENANCE
17 LIMITED USE HIGHWAY SHALL BE A HIGHWAY USED PRINCIPALLY OR EXCLUSIVELY
18 FOR AGRICULTURAL OR RECREATIONAL LAND ACCESS. A HIGHWAY OR PORTION
19 THEREOF WHICH HAS BEEN SO DESIGNATED BY THE TOWN BOARD SHALL BE MAIN-
20 TAINED AT A LEVEL WHICH ALLOWS SUCH HIGHWAY TO REMAIN PASSABLE AND FUNC-
21 TIONAL IN ACCORDANCE WITH STANDARDS ADOPTED BY THE TOWN BOARD. NO PAVED
22 HIGHWAY, OR HIGHWAY PROVIDING ACCESS TO AN OPERATING FARM CENTER, RESI-

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

LBD02278-01-9

1 DENCE APPROVED FOR YEAR-ROUND OCCUPANCY OR COMMERCIAL BUILDING SHALL BE
2 DESIGNATED AS A MINIMUM MAINTENANCE LIMITED USE HIGHWAY. THE TOWN BOARD
3 MAY, BY RESOLUTION, DIRECT THE TOWN SUPERINTENDENT TO ESTABLISH REGU-
4 LATIONS PROVIDING FOR THE DESIGNATION AND MAINTENANCE OF HIGHWAYS, OR
5 PORTIONS THEREOF, AS MINIMUM MAINTENANCE LIMITED USE HIGHWAYS. WITHIN
6 THIRTY DAYS AFTER THE PRESENTATION BY THE TOWN SUPERINTENDENT OF
7 PROPOSED TOWN REGULATIONS PROVIDING FOR THE DESIGNATION AND MAINTENANCE
8 OF MINIMUM MAINTENANCE LIMITED USE HIGHWAYS, THE TOWN BOARD MAY ADOPT BY
9 LOCAL LAW THE REGULATIONS AS PRESENTED OR AMENDED.

10 B. IN THE EVENT THE TOWN SUPERINTENDENT DETERMINES THAT A HIGHWAY, OR
11 PORTION THEREOF, COMPLIES WITH THE REGULATIONS ESTABLISHED BY THE TOWN
12 BOARD FOR MINIMUM MAINTENANCE LIMITED USE HIGHWAYS, SUCH SUPERINTENDENT
13 MAY PETITION THE TOWN BOARD TO DESIGNATE SUCH HIGHWAY, OR PORTION THERE-
14 OF, AS A MINIMUM MAINTENANCE LIMITED USE HIGHWAY. THE TOWN BOARD MAY
15 THEREAFTER ADOPT A LOCAL LAW DESIGNATING SUCH HIGHWAY, OR PORTION THERE-
16 OF, AS A MINIMUM MAINTENANCE LIMITED USE HIGHWAY, AND NOTICE SHALL BE
17 GIVEN, BY CERTIFIED MAIL, TO EVERY OWNER OF REAL PROPERTY, AS DETERMINED
18 BY THE LATEST COMPLETED ASSESSMENT ROLL, ABUTTING THE PROPOSED MINIMUM
19 MAINTENANCE LIMITED USE HIGHWAY, OR PORTION THEREOF. IN THE EVENT SUCH
20 LOCAL LAW IS ADOPTED AND UPON THE EFFECTIVE DATE OF SUCH LOCAL LAW, SUCH
21 HIGHWAY SHALL THEREAFTER BE MAINTAINED IN ACCORDANCE WITH THE MINIMUM
22 MAINTENANCE LIMITED USE HIGHWAY REGULATIONS. A MINIMUM MAINTENANCE
23 LIMITED USE HIGHWAY OR PORTION THEREOF SHALL BE APPROPRIATELY POSTED IN
24 ACCORDANCE WITH TITLE SEVENTEEN OF THE NEW YORK STATE CODES, RULES AND
25 REGULATIONS.

26 3. PETITION FOR DISCONTINUANCE OF LIMITED USE HIGHWAY DESIGNATION. THE
27 OWNER OF LAND LOCATED ON A LIMITED USE HIGHWAY, MAY PETITION THE TOWN
28 BOARD TO DISCONTINUE THE DESIGNATION OF SUCH HIGHWAY OR PORTION THEREOF
29 AS A SEASONAL OR MINIMUM MAINTENANCE LIMITED USE HIGHWAY BY FILING SUCH
30 PETITION WITH THE TOWN CLERK. SUCH PETITION SHALL IDENTIFY THE LIMITED
31 USE HIGHWAY OR PORTION THEREOF TO BE DISCONTINUED, AND THE TOWN CLERK
32 SHALL FORTHWITH TRANSMIT THE SAME TO THE TOWN BOARD. THE TOWN BOARD
33 SHALL HOLD A PUBLIC HEARING UPON SUCH PETITION WITHIN THIRTY-TWO DAYS OF
34 ITS RECEIPT. AT LEAST TEN DAYS PUBLIC NOTICE SHALL BE GIVEN PRIOR TO THE
35 CONDUCT OF SUCH PUBLIC HEARING, AND WRITTEN NOTICE SERVED BY CERTIFIED
36 MAIL UPON EVERY OWNER OF PROPERTY ABUTTING SUCH HIGHWAY OR PORTION THER-
37 EOF, AS DETERMINED BY THE LATEST ASSESSMENT ROLL. IN THE EVENT IT IS
38 DETERMINED THAT SUCH HIGHWAY OR PORTION THEREOF SHALL BE DISCONTINUED AS
39 A LIMITED USE HIGHWAY, THE TOWN BOARD SHALL, BY LOCAL LAW, DISCONTINUE
40 SUCH HIGHWAY OR PORTION THEREOF AS A LIMITED USE HIGHWAY AT THE TIME SET
41 FORTH IN SUCH LOCAL LAW. THE TOWN BOARD SHALL RENDER ITS DECISION TO
42 CONTINUE OR DISCONTINUE SUCH LIMITED USE HIGHWAY NO LATER THAN SIXTY
43 DAYS AFTER THE HOLDING OF SUCH PUBLIC HEARING, AND SHALL NOTIFY THE
44 PETITIONER OF SUCH ACTION BY CERTIFIED MAIL WITHIN TEN BUSINESS DAYS,
45 INCLUDING THE SPECIFIC FINDINGS AND DETERMINATION OF THE TOWN BOARD.
46 SUCH ACTION SHALL NOT PRECLUDE A TOWN BOARD FROM DISCONTINUING AT ANY
47 TIME, BY LOCAL LAW, THE HIGHWAY OR PORTION THEREOF AS A LIMITED USE
48 HIGHWAY. NO FURTHER PETITIONS MAY BE SUBMITTED PURSUANT TO THIS SECTION
49 UNTIL THE LAPSE OF AT LEAST TWO YEARS FROM THE DATE OF THE FILING OF A
50 PETITION WHICH WAS DENIED.

51 S 2. This act shall take effect immediately.