

5427

2009-2010 Regular Sessions

I N   S E N A T E

May 4, 2009

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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 Section 205-a of the highway law is REPEALED and a new  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.

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

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

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

S 2. This act shall take effect immediately.