

4578--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 4, 2011

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Introduced by M. of A. SILVER, MENG -- Multi-Sponsored by -- M. of A. NOLAN -- read once and referred to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to establishing an intercity bus permit system in cities having a population of one million or more

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

1     Section 1. The vehicle and traffic law is amended by adding a new  
2     section 1642-a to read as follows:

3     S 1642-A. BUS PERMIT SYSTEM IN CITIES HAVING A POPULATION OF ONE  
4     MILLION OR MORE. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING  
5     TERMS SHALL HAVE THE FOLLOWING MEANINGS:

6     A. "CHARTER BUS" SHALL MEAN A BUS TRANSPORTING PASSENGERS FOR COMPEN-  
7     SATION IN CHARTERED PARTY.

8     B. "CHARTERED PARTY" SHALL MEAN A GROUP OF PERSONS WHO, PURSUANT TO A  
9     COMMON PURPOSE AND UNDER A SINGLE CONTRACT AND AT A FIXED CHARGE, HAVE  
10    ACQUIRED EXCLUSIVE USE OF A BUS TO TRAVEL TOGETHER AS A GROUP TO A  
11    SPECIFIC DESTINATION OR FOR A PARTICULAR ITINERARY EITHER AGREED UPON IN  
12    ADVANCE OR MODIFIED AFTER HAVING LEFT THE PLACE OF ORIGIN BY SUCH GROUP.

13    C. "COMMUNITY BOARD" SHALL MEAN A COMMUNITY BOARD AS DEFINED IN  
14    SECTION TWENTY-EIGHT HUNDRED OF THE NEW YORK CITY CHARTER.

15    D. "INTERCITY BUS" SHALL MEAN A BUS THAT TRANSPORTS THE GENERAL PUBLIC  
16    BETWEEN A CITY HAVING A POPULATION OF ONE MILLION OR MORE AND ANY  
17    LOCATION OUTSIDE OF SUCH CITY IN SCHEDULED BUS SERVICE. PROVIDED,  
18    HOWEVER, THAT SUCH TERM SHALL NOT INCLUDE A SCHOOL BUS; OR A BUS PROVID-  
19    ING PUBLIC TRANSPORTATION; OR A CHARTER BUS.

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

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1 E. "METROPOLITAN TRANSPORTATION AUTHORITY" SHALL MEAN THE CORPORATION  
2 CREATED BY SECTION TWELVE HUNDRED SIXTY-THREE OF THE PUBLIC AUTHORITIES  
3 LAW.

4 F. "PUBLIC TRANSPORTATION" SHALL MEAN:

5 (I) MASS TRANSPORTATION SERVICES PROVIDED TO THE GENERAL PUBLIC BY ANY  
6 PUBLIC BENEFIT CORPORATION CONSTITUTING A TRANSPORTATION AUTHORITY, OR A  
7 SUBSIDIARY THEREOF, OR ANY PUBLIC TRANSPORTATION CORPORATION CONSTITUTED  
8 AS AN INSTRUMENTALITY OF A STATE, OR A SUBSIDIARY THEREOF, DIRECTLY OR  
9 THROUGH A CONTACT WITH ANOTHER ENTITY, OR

10 (II) MASS TRANSPORTATION SERVICES PROVIDED TO THE GENERAL PUBLIC BY  
11 ANY COUNTY, CITY, TOWN OR VILLAGE DIRECTLY OR THROUGH A CONTRACT WITH  
12 ANOTHER ENTITY PURSUANT TO SECTION ONE HUNDRED NINETEEN-R OF THE GENERAL  
13 MUNICIPAL LAW, OR PROVIDED TO THE GENERAL PUBLIC BY ANOTHER STATE OR ANY  
14 COUNTY, CITY, TOWN OR VILLAGE IN A STATE OTHER THAN NEW YORK DIRECTLY OR  
15 THROUGH A CONTRACT WITH ANOTHER ENTITY PURSUANT TO A SIMILAR LAW OF SUCH  
16 OTHER STATE.

17 2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY CITY  
18 HAVING A POPULATION OF ONE MILLION OR MORE MAY PROHIBIT INTERCITY BUSES  
19 FROM LOADING OR UNLOADING PASSENGERS ON STREETS WITHIN SUCH CITY EXCEPT  
20 ON DESIGNATED STREETS AND AT DESIGNATED LOCATIONS ON SUCH STREETS PURSU-  
21 ANT TO A PERMIT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

22 3. THE MAYOR OF SUCH CITY WHICH ACTS PURSUANT TO SUBDIVISION TWO OF  
23 THIS SECTION SHALL DESIGNATE AN AGENCY TO PROMULGATE RULES TO IMPLEMENT  
24 THIS SECTION. SUCH CITY AGENCY SHALL PROMULGATE SUCH RULES WHICH SHALL  
25 COMPLY WITH CHAPTER FORTY-FIVE OF THE NEW YORK CITY CHARTER INCLUDING A  
26 PUBLIC HEARING. SUCH RULES SHALL:

27 A. ESTABLISH A SYSTEM OF PERMITS FOR ALLOCATING LOCATIONS ON DESIG-  
28 NATED STREETS WHERE INTERCITY BUSES MAY LOAD AND UNLOAD PASSENGERS, AND  
29 PROHIBIT LOADING AND UNLOADING OF PASSENGERS OTHER THAN AT SUCH DESIG-  
30 NATED LOCATIONS ON SUCH DESIGNATED STREETS PURSUANT TO A PERMIT;

31 B. REQUIRE THE OWNER OR OPERATOR OF AN INTERCITY BUS TO SUBMIT AN  
32 APPLICATION FOR A PERMIT FOR EACH PROPOSED LOCATION FOR LOADING AND  
33 UNLOADING OF PASSENGERS. SUCH APPLICATION SHALL INCLUDE THE FOLLOWING  
34 INFORMATION:

35 (I) THE NAME, ADDRESS, TELEPHONE NUMBER, E-MAIL ADDRESS AND MOTOR  
36 CARRIER NUMBER OF THE INTERCITY BUS OWNER OR OPERATOR, THE UNITED STATES  
37 DEPARTMENT OF TRANSPORTATION NUMBER AND/OR NEW YORK STATE DEPARTMENT OF  
38 TRANSPORTATION NUMBER FOR EACH BUS THAT WOULD USE SUCH PROPOSED  
39 LOCATION;

40 (II) A PROPOSED LOCATION OR LOCATIONS TO BE USED BY THE SPECIFIED  
41 INTERCITY BUSES FOR LOADING OR UNLOADING PASSENGERS, AND TWO OR MORE  
42 ALTERNATIVE PROPOSED LOCATIONS;

43 (III) THE NUMBER OF INTERCITY BUSES THAT WOULD USE THE PROPOSED  
44 LOCATION OR LOCATIONS;

45 (IV) THE NUMBER OF PASSENGERS ANTICIPATED FOR EACH SUCH INTERCITY BUS;

46 (V) THE PROPOSED INTERCITY BUS SCHEDULE;

47 (VI) THE PLANNED GARAGE OR PARKING LOCATION OF THE INTERCITY BUSES  
48 DURING PERIODS WHEN SUCH BUSES ARE NOT BEING USED; AND

49 (VII) ANY OTHER INFORMATION DEEMED NECESSARY BY THE COMMISSIONER OF  
50 THE CITY AGENCY DESIGNATED PURSUANT TO THIS SUBDIVISION.

51 C. ESTABLISH CRITERIA FOR ASSIGNING LOCATIONS TO PERMIT APPLICANTS,  
52 WHICH SHALL INCLUDE TRAFFIC AND SAFETY CONSIDERATIONS, THE PREFERENCES  
53 OF THE APPLICANT, CONSULTATION WITH THE LOCAL COMMUNITY BOARD AS  
54 PROVIDED IN PARAGRAPH B OF SUBDIVISION FOUR OF THIS SECTION AND OTHER  
55 CRITERIA DEEMED APPROPRIATE BY THE COMMISSIONER OF SUCH CITY AGENCY;

1 D. PROVIDE THAT SUCH PERMIT SHALL BE ISSUED FOR A TERM OF UP TO THREE  
2 YEARS, EXCEPT THAT SUCH CITY MAY RELOCATE A DESIGNATED LOCATION FOR THE  
3 LOADING AND UNLOADING OF PASSENGERS BY AN INTERCITY BUS, UPON NINETY  
4 DAYS NOTICE TO THE HOLDER OF A PERMIT AND AFTER CONSULTATION WITH THE  
5 LOCAL COMMUNITY BOARD AS PROVIDED IN PARAGRAPH B OF SUBDIVISION FOUR OF  
6 THIS SECTION, PURSUANT TO THE CRITERIA ESTABLISHED IN ACCORDANCE WITH  
7 PARAGRAPH C OF THIS SUBDIVISION;

8 E. INCLUDE CRITERIA UNDER WHICH INTERCITY BUS OWNERS OR OPERATORS  
9 ASSIGNED A DESIGNATED LOCATION FOR LOADING AND UNLOADING PASSENGERS  
10 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL BE ISSUED A PERMIT TO  
11 USE SUCH LOCATION FOR THE LOADING AND UNLOADING OF PASSENGERS FOR A  
12 PERIOD OF UP TO THREE YEARS FROM THE EFFECTIVE DATE OF THIS SECTION;

13 F. ESTABLISH A TIMEFRAME OF UP TO ONE HUNDRED FIFTY DAYS FOR DETERMI-  
14 NATIONS ON PERMIT APPLICATIONS, AND A PROCESS FOR REVIEWING THE DETERMI-  
15 NATION ON THE APPLICATION;

16 G. REQUIRE INTERCITY BUS OWNERS OR OPERATORS TO NOTIFY SUCH CITY AGEN-  
17 CY OF CHANGES TO INFORMATION PROVIDED IN SUCH PERMIT APPLICATION;

18 H. REQUIRE INTERCITY BUS OWNERS OR OPERATORS TO PROMINENTLY DISPLAY A  
19 COPY OF THE PERMIT IN EACH INTERCITY BUS;

20 I. REQUIRE THE POSTING OF ALL APPROVED APPLICATIONS ON A WEBSITE FOR  
21 PUBLIC ACCESS BY SUCH CITY AGENCY WITHIN THIRTY DAYS OF APPROVAL;

22 J. INCLUDE SUCH OTHER REQUIREMENTS AS ARE DEEMED APPROPRIATE BY THE  
23 COMMISSIONER OF SUCH CITY AGENCY;

24 K. SET FORTH A SCHEDULE OF FINES OR CIVIL PENALTIES FOR VIOLATIONS OF  
25 THE RULES BY OWNERS OR OPERATORS OF INTERCITY BUSES, INCLUDING FOR LOAD-  
26 ING OR UNLOADING PASSENGERS ON A CITY STREET WITHOUT A PERMIT OR FOR  
27 FAILURE TO COMPLY WITH ANY PERMIT REQUIREMENTS OR RESTRICTIONS, PROVIDED  
28 THAT SUCH FINES OR CIVIL PENALTIES SHALL NOT BE MORE THAN ONE THOUSAND  
29 DOLLARS FOR A FIRST VIOLATION, AND NOT BE MORE THAN TWO THOUSAND FIVE  
30 HUNDRED DOLLARS FOR A SECOND OR SUBSEQUENT VIOLATION WITHIN TWO YEARS OF  
31 THE FIRST VIOLATION; AND

32 1. PROVIDE FOR THE SUSPENSION OR REVOCATION OF A PERMIT FOR FAILURE TO  
33 COMPLY WITH ANY PERMIT REQUIREMENTS OR RESTRICTIONS.

34 SUCH RULES ALSO MAY PROVIDE FOR THE IMPOSITION OF AN ANNUAL FEE FOR  
35 SUCH PERMIT TO COVER ADMINISTRATIVE EXPENSES, NOT TO EXCEED TWO HUNDRED  
36 SEVENTY-FIVE DOLLARS PER VEHICLE.

37 4. THE CITY AGENCY DESIGNATED PURSUANT TO SUBDIVISION THREE OF THIS  
38 SECTION TO PROMULGATE RULES SHALL:

39 A. HAVE THE AUTHORITY TO DESIGNATE STREETS AND LOCATIONS WHERE THE  
40 LOADING OR UNLOADING OF PASSENGERS BY INTERCITY BUSES SHALL BE PERMIT-  
41 TED;

42 B. CONSULT WITH THE LOCAL COMMUNITY BOARD FOR THE DISTRICT ENCOMPASS-  
43 ING THE LOCATION TO BE DESIGNATED IN A PERMIT, INCLUDING BUT NOT LIMITED  
44 TO A NOTICE AND COMMENT PERIOD OF FORTY-FIVE DAYS, PRIOR TO THE ISSUANCE  
45 OR PERMANENT AMENDMENT OF SUCH PERMIT;

46 C. CONSULT WITH THE METROPOLITAN TRANSPORTATION AUTHORITY WHEN A  
47 PROPOSED LOCATION OR RELOCATION FOR THE LOADING AND UNLOADING OF PASSEN-  
48 GERS BY AN INTERCITY BUS WOULD OVERLAP WITH AN EXISTING METROPOLITAN  
49 TRANSPORTATION AUTHORITY BUS STOP;

50 D. POST ALL LOCATIONS DESIGNATED FOR THE LOADING AND UNLOADING OF  
51 PASSENGERS BY INTERCITY BUS ON A WEBSITE FOR PUBLIC ACCESS WITHIN THIRTY  
52 DAYS OF APPROVAL; AND

53 E. HAVE THE AUTHORITY TO TEMPORARILY AMEND ANY APPROVED LOCATION FOR A  
54 PERIOD OF UP TO NINETY DAYS FOR REASONS OF PUBLIC SAFETY OR OTHER EMER-  
55 GENCY OR TEMPORARY NEED AS DETERMINED BY SUCH CITY AGENCY WITHOUT PRIOR  
56 CONSULTATION WITH THE LOCAL COMMUNITY BOARD; PROVIDED THAT SUCH CITY

1 AGENCY INFORMS THE AFFECTED COMMUNITY BOARD IN WRITING NO MORE THAN  
2 THIRTY DAYS AFTER ANY SUCH TEMPORARY AMENDMENT.

3 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ADDITION TO THOSE  
4 PERSONS OTHERWISE AUTHORIZED TO ENFORCE ANY RULES PROMULGATED PURSUANT  
5 TO THIS SECTION AND ADJUDICATE VIOLATIONS THEREOF PURSUANT TO ARTICLE  
6 TWO-A OR TWO-B OF THIS CHAPTER, THIS SECTION SHALL ALSO BE ENFORCEABLE  
7 BY AN AGENCY OR AGENCIES DESIGNATED FOR SUCH PURPOSE BY THE MAYOR OF  
8 SUCH CITY, AND NOTICES OF VIOLATION ISSUED BY SUCH AGENCY OR AGENCIES  
9 SHALL BE RETURNABLE TO THE ENVIRONMENTAL CONTROL BOARD OF SUCH CITY,  
10 WHICH SHALL HAVE THE POWER TO IMPOSE THE CIVIL PENALTIES HEREIN  
11 PROVIDED. ALL PROCEEDINGS BEFORE THE ENVIRONMENTAL CONTROL BOARD AND ANY  
12 ENFORCEMENT PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH SUBDIVI-  
13 SION D OF SECTION ONE THOUSAND FORTY-NINE-A OF THE NEW YORK CITY CHARTER  
14 AND THE RULES OF THE ENVIRONMENTAL CONTROL BOARD, EXCEPT THAT SERVICE OF  
15 A NOTICE OF VIOLATION OF ANY RULE PROMULGATED PURSUANT TO THIS SECTION  
16 SHALL BE MADE ON THE OWNER OR OPERATOR OF THE INTERCITY BUS INVOLVED IN  
17 THE VIOLATION (I) IN THE SAME MANNER AS IS PRESCRIBED FOR SERVICE OF  
18 PROCESS BY ARTICLE THREE OF THE CIVIL PRACTICE LAW AND RULES OR ARTICLE  
19 THREE OF THE BUSINESS CORPORATION LAW; (II) BY DELIVERING SUCH NOTICE TO  
20 THE OPERATOR OF THE INTERCITY BUS, AND MAILING A COPY OF THE NOTICE TO  
21 THE OWNER OR OPERATOR OF THE INTERCITY BUS, PROVIDED THAT PROOF OF SUCH  
22 SERVICE SHALL BE FILED WITH THE ENVIRONMENTAL CONTROL BOARD WITHIN TWEN-  
23 TY DAYS, AND SERVICE SHALL BE COMPLETE TEN DAYS AFTER SUCH FILING; OR  
24 (III) BY AFFIXING SUCH NOTICE TO THE INTERCITY BUS, AND MAILING A COPY  
25 OF THE NOTICE TO THE OWNER OR OPERATOR OF THE INTERCITY BUS, PROVIDED  
26 THAT PROOF OF SUCH SERVICE SHALL BE FILED WITH THE ENVIRONMENTAL CONTROL  
27 BOARD WITHIN TWENTY DAYS, AND SERVICE SHALL BE COMPLETE TEN DAYS AFTER  
28 SUCH FILING. CIVIL PENALTIES MAY ALSO BE RECOVERED IN A PROCEEDING  
29 COMMENCED IN A COURT OF COMPETENT JURISDICTION. NOTWITHSTANDING ANY  
30 OTHER PROVISION OF LAW, SUCH CIVIL PENALTIES IMPOSED BY SUCH ENVIRON-  
31 MENTAL CONTROL BOARD SHALL BE PAID INTO THE GENERAL FUND OF SUCH CITY.  
32 NOTWITHSTANDING SECTION ONE HUNDRED FIFTY-FIVE OF THIS CHAPTER OR ANY  
33 OTHER PROVISION OF LAW, WHERE A PERSON HAS BEEN ADJUDICATED TO BE IN  
34 VIOLATION OF ANY RULES PROMULGATED PURSUANT TO SUBDIVISION THREE OF THIS  
35 SECTION, SUCH ADJUDICATION SHALL NOT HAVE THE FORCE AND EFFECT OF A  
36 CONVICTION OF A TRAFFIC INFRACTION OR OF A VIOLATION OF ANY PROVISION OF  
37 THIS CHAPTER FOR ANY PURPOSE NOT SPECIFIED IN THIS SECTION.

38 S 2. This act shall take effect on the ninetieth day after it shall  
39 have become a law.