

4578--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 4, 2011

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.