

S. 2977

A. 4578

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

February 4, 2011

IN SENATE -- Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

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

AN ACT to amend the vehicle and traffic law, in relation to establishing an intercity bus passenger service 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. INTERCITY BUS PASSENGER SERVICE PERMIT SYSTEM IN CITIES
4 HAVING A POPULATION OF ONE MILLION OR MORE. 1. DEFINITIONS. AS USED IN
5 THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
6 A. "COMMUNITY BOARD" SHALL HAVE THE SAME MEANING AS SUCH TERM IS
7 DEFINED IN SECTION TWENTY-EIGHT HUNDRED OF THE NEW YORK CITY CHARTER;
8 B. "INTERCITY BUS PASSENGER SERVICE" SHALL MEAN TRANSPORTATION BY BUS
9 PROVIDED TO THE PUBLIC ON A REGULAR AND CONTINUING BASIS BY A PERSON,
10 FIRM, OR CORPORATION AUTHORIZED TO TRANSPORT PASSENGERS IN INTERSTATE
11 COMMERCE BY THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION OR IN INTRA-
12 STATE COMMERCE BY THE STATE DEPARTMENT OF TRANSPORTATION THAT IS PRIMA-
13 RILY INTENDED TO SATISFY LONGER DISTANCE TRAVEL DEMAND BETWEEN CITIES,
14 AND VILLAGES AND UNINCORPORATED URBAN PLACES; AND
15 C. "METROPOLITAN TRANSPORTATION AUTHORITY" SHALL MEAN THE CORPORATION
16 CREATED BY SECTION TWELVE HUNDRED SIXTY-THREE OF THE PUBLIC AUTHORITIES
17 LAW.
18 2. EXEMPTIONS. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY
19 TRANSPORTATION FOR COMPENSATION WHEN THAT TRANSPORTATION IS PERFORMED:

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

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1 A. INCIDENTAL TO OR IN FURTHERANCE OF ANY NON-TRANSPORTATION COMMER-
2 CIAL OR NOT-FOR-PROFIT ENTERPRISE OF THE PROVIDER OF THE TRANSPORTATION
3 WHEN SUCH TRANSPORTATION IS NOT OPEN TO THE GENERAL PUBLIC;

4 B. TO AND FROM SCHOOLS AND SCHOOL-RELATED ACTIVITIES;

5 C. ON AN OCCASIONAL, CASUAL OR RECIPROCAL BASIS BY PERSONS NOT ENGAGED
6 IN TRANSPORTATION AS A REGULAR OCCUPATION OR BUSINESS;

7 D. AS A SIGHTSEEING SERVICE CONDUCTED PURSUANT TO THE JURISDICTION OR
8 REGULATORY CONTROL OF A CITY, VILLAGE OR TOWN WHEN SUCH SERVICE IS OPER-
9 ATED WHOLLY WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE;

10 E. IN AMBULANCES THAT ARE UNDER THE JURISDICTION OF THE NEW YORK STATE
11 DEPARTMENT OF HEALTH;

12 F. BY TRANSPORTATION AUTHORITIES WHEN THE TRANSPORTATION PERFORMED IS
13 WHOLLY WITHIN THE TRANSPORTATION DISTRICT PRESCRIBED BY THE PUBLIC
14 AUTHORITIES LAW FOR SUCH TRANSPORTATION AUTHORITY;

15 G. BY TRANSPORTATION SYSTEMS THAT ARE WHOLLY OWNED BY A MUNICIPALITY
16 WHEN THE TRANSPORTATION PERFORMED IS WHOLLY WITHIN SUCH MUNICIPALITY'S
17 BOUNDARIES;

18 H. BY BUSES OPERATING WHOLLY WITHIN ANY CITY;

19 I. BY CARRIERS OPERATING UNDER A CONTRACT WITH AN EMPLOYER TO PROVIDE
20 TRANSPORTATION FOR THE EXCLUSIVE USE OF EMPLOYEES; AND

21 J. AS A TAXI OR LIVERY SERVICE CONDUCTED IN VEHICLES HAVING A SEATING
22 CAPACITY OF TWENTY PASSENGERS OR LESS PURSUANT TO THE JURISDICTION OR
23 REGULATORY CONTROL OF A CITY WITH A POPULATION OVER ONE MILLION, WHEN
24 SUCH SERVICE IS CONDUCTED WHOLLY WITHIN SUCH A CITY.

25 3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH CITY WITH A POPU-
26 LATION OF ONE MILLION OR MORE MAY, BY ADOPTION OF A LOCAL LAW OR ORDI-
27 NANCE:

28 A. ESTABLISH A PERMIT SYSTEM FOR THE LOADING AND UNLOADING OF PASSEN-
29 GERS ON STREETS WITHIN SUCH CITY BY BUSES OPERATING IN INTERCITY BUS
30 PASSENGER SERVICE; AND

31 B. PROHIBIT BUSES OPERATING IN INTERCITY BUS PASSENGER SERVICE FROM
32 LOADING OR UNLOADING PASSENGERS ON STREETS WITHIN SUCH CITY WITHOUT A
33 PERMIT ISSUED PURSUANT TO ANY SUCH LOCAL LAW OR ORDINANCE OR IN
34 VIOLATION OF ANY PERMIT REQUIREMENTS OR RESTRICTIONS. PROVIDED, HOWEVER,
35 PRIOR TO ESTABLISHING A PERMIT SYSTEM THE CITY AGENCY DESIGNATED PURSU-
36 ANT TO PARAGRAPH A OF SUBDIVISION FOUR OF THIS SECTION SHALL, IN CONSUL-
37 TATION WITH THE METROPOLITAN TRANSPORTATION AUTHORITY AND COMMUNITY
38 BOARDS, IDENTIFY A SUFFICIENT NUMBER OF LOCATIONS FOR THE LOADING AND
39 UNLOADING OF PASSENGERS BY SUCH BUSES.

40 4. THE LOCAL LAW OR ORDINANCE PROVIDING FOR SUCH PERMIT SYSTEM:

41 A. SHALL DESIGNATE A CITY AGENCY WHICH SHALL ASSUME THE REGULATORY
42 RESPONSIBILITY FOR SUCH PERMIT SYSTEM INCLUDING THE ISSUANCE OF PERMITS,
43 THE DESIGNATION OF LOCATIONS FOR THE LOADING AND UNLOADING OF PASSEN-
44 GERS, AND THE DESIGNATION OF STREETS OR AREAS WHERE THE LOADING OR
45 UNLOADING OF PASSENGERS MAY BE PROHIBITED;

46 B. SHALL ESTABLISH CRITERIA FOR THE ISSUANCE OF PERMITS WHICH SHALL
47 INCLUDE, BUT NOT BE LIMITED TO, REQUIRING THE OWNER OR OPERATOR OF AN
48 INTERCITY BUS PASSENGER SERVICE TO SUBMIT A PERMIT APPLICATION FOR EACH
49 PROPOSED LOCATION FOR LOADING OR UNLOADING PASSENGERS WHICH APPLICATION
50 SHALL INCLUDE THE NAME, ADDRESS, TELEPHONE NUMBER, E-MAIL ADDRESS AND
51 MOTOR CARRIER NUMBER OF THE OWNER OR OPERATOR OF SUCH INTERCITY BUS
52 PASSENGER SERVICE, THE FOLLOWING IDENTIFYING INFORMATION FOR EACH BUS TO
53 BE USED IN SUCH INTERCITY BUS PASSENGER SERVICE: UNITED STATES DEPART-
54 MENT OF TRANSPORTATION NUMBER AND/OR NEW YORK STATE DEPARTMENT OF TRANS-
55 PORTATION NUMBER; A PROPOSED LOCATION, AND TWO OR MORE ALTERNATIVE
56 PROPOSED LOCATIONS, FOR THE LOADING OR UNLOADING OF PASSENGERS; THE

1 NUMBER OF BUSES THAT WOULD USE THE DESIGNATED LOCATION FOR THE LOADING
2 OR UNLOADING OF PASSENGERS; THE NUMBER OF PASSENGERS ANTICIPATED FOR
3 EACH BUS; THE NUMBER OF BUSES THAT WOULD USE THE DESIGNATED LOCATION FOR
4 EACH BUS; THE PROPOSED BUS SCHEDULE; THE PROPOSED GARAGE OR PARKING
5 LOCATION OF THE BUSES DURING PERIODS WHEN THE BUSES ARE NOT BEING USED
6 FOR INTERCITY BUS PASSENGER SERVICE; AND ANY OTHER INFORMATION DEEMED
7 NECESSARY BY THE COMMISSIONER OF THE CITY AGENCY DESIGNATED PURSUANT TO
8 PARAGRAPH A OF THIS SUBDIVISION;

9 C. SHALL AUTHORIZE THE CITY AGENCY DESIGNATED PURSUANT TO PARAGRAPH A
10 OF THIS SUBDIVISION TO PROMULGATE RULES AND REGULATIONS FOR THE IMPLE-
11 MENTATION OF SUCH LOCAL LAW WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:

12 (I) PROVIDING FOR THE ISSUANCE OF PERMITS IN ACCORDANCE WITH CRITERIA
13 ESTABLISHED BY SUCH LOCAL LAW OR ORDINANCE;

14 (II) ESTABLISHING CRITERIA TO APPROVE OR DISAPPROVE PERMIT APPLICA-
15 TIONS, WHICH MUST INCLUDE AT MINIMUM A THIRTY DAY NOTICE AND COMMENT
16 PERIOD FOR THE METROPOLITAN TRANSPORTATION AUTHORITY AND THE RELEVANT
17 COMMUNITY BOARD AND A PROCESS FOR APPLICANTS TO APPEAL A DISAPPROVAL OF
18 A PERMIT APPLICATION;

19 (III) ESTABLISHING CRITERIA FOR ASSIGNING LOCATIONS TO PERMIT APPLI-
20 CANTS FOR THE LOADING OR UNLOADING OF PASSENGERS WHICH SHALL INCLUDE,
21 BUT NOT BE LIMITED TO, THE APPLICANT'S PREFERENCES, TRAFFIC AND SAFETY
22 CONSIDERATIONS, CONSIDERATION OF COMMENTS FROM THE METROPOLITAN TRANS-
23 PORTATION AUTHORITY AND THE RELEVANT COMMUNITY BOARD, AND ANY OTHER
24 CRITERIA DEEMED APPROPRIATE BY THE COMMISSIONER OF SUCH AGENCY;

25 (IV) ESTABLISHING A PROCESS TO REVIEW AND RENDER A FINAL ADMINISTRA-
26 TIVE DETERMINATION ON ANY APPLICATION FOR THE ISSUANCE OF A PERMIT WITH-
27 IN NINETY DAYS AFTER A COMPLETED APPLICATION IS FILED;

28 (V) ESTABLISHING CRITERIA FOR GRANTING A WAIVER OF ANY OR ALL REQUIRE-
29 MENTS FOR AN OWNER OR OPERATOR OF INTERCITY BUS PASSENGER SERVICE THAT
30 INFREQUENTLY LOADS OR UNLOADS PASSENGERS IN SUCH CITY, OR BASED ON OPER-
31 ATIONAL CONSIDERATIONS, AND A PROCESS FOR APPLYING FOR SUCH A WAIVER;
32 AND

33 (VI) PROVIDING THAT PERMITS MAY BE ISSUED FOR UP TO THREE YEARS,
34 PROVIDED, HOWEVER, THAT THE CITY AGENCY DESIGNATED PURSUANT TO PARAGRAPH
35 A OF THIS SUBDIVISION MAY RELOCATE A DESIGNATED LOCATION, UPON THIRTY
36 DAYS' NOTICE TO THE HOLDER OF THE PERMIT, THE METROPOLITAN TRANSPORTA-
37 TION AUTHORITY AND THE RELEVANT COMMUNITY BOARD BASED ON CITY NEEDS AS
38 DETERMINED BY THE COMMISSIONER OF SUCH AGENCY;

39 D. SHALL REQUIRE THE OWNER OR OPERATOR OF AN INTERCITY BUS PASSENGER
40 SERVICE TO PROMINENTLY DISPLAY A COPY OF SUCH PERMIT IN EACH BUS THAT
41 USES A DESIGNATED LOCATION FOR THE LOADING OR UNLOADING OF PASSENGERS;

42 E. SHALL PROVIDE FOR PUBLIC NOTICE OF PERMIT APPLICATIONS WITHIN FIVE
43 BUSINESS DAYS OF SUBMISSION THEREOF;

44 F. SHALL PROVIDE THAT, AS A CONDITION TO OBTAINING A PERMIT PURSUANT
45 TO A LOCAL LAW OR ORDINANCE ADOPTED PURSUANT TO THIS SECTION, EVERY
46 PERMIT APPLICANT SHALL OBTAIN AND CONTINUE IN EFFECT A SURETY BOND IN
47 THE AMOUNT OF FIVE THOUSAND DOLLARS EXECUTED BY A SURETY COMPANY AUTHOR-
48 IZED TO TRANSACT BUSINESS IN THE STATE BY THE INSURANCE DEPARTMENT OF
49 THE STATE. THE BONDS SHALL BE APPROVED AS TO FORM BY THE COMMISSIONER OF
50 THE CITY AGENCY DESIGNATED PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION
51 AND SHALL BE CONDITIONED ON THE PERMIT APPLICANT'S OR HOLDER'S PAYMENT
52 OF ALL CIVIL PENALTIES IMPOSED UPON THE PERMIT APPLICANT OR HOLDER FOR
53 OPERATING AN INTERCITY BUS PASSENGER SERVICE THAT LOADS OR UNLOADS
54 PASSENGERS ON STREETS WITHIN SUCH CITY IN VIOLATION OF ANY PERMIT
55 REQUIREMENTS OR RESTRICTIONS. RECOVERY AGAINST A BOND MAY BE MADE BY
56 SUCH CITY WHICH OBTAINS A JUDGMENT AGAINST THE PERMIT APPLICANT OR HOLD-

1 ER FOR AN ACT OR OMISSION ON WHICH THE BOND IS CONDITIONED IF THE ACT OR
2 OMISSION OCCURRED DURING THE TERM OF THE BOND. THE TOTAL LIABILITY
3 IMPOSED ON THE SURETY UNDER THIS SECTION FOR ALL BREACHES OF THE BOND
4 CONDITION IS LIMITED TO THE FACE AMOUNT OF THE BOND. SUCH LIABILITY MAY
5 INCLUDE, BUT IS NOT LIMITED TO, THE AMOUNT OF THE FINES IMPOSED AND
6 UNPAID. IN NO EVENT SHALL THE SURETY ON A BOND BE LIABLE FOR TOTAL
7 CLAIMS IN EXCESS OF THE BOND AMOUNT, REGARDLESS OF THE NUMBER OR NATURE
8 OF CLAIMS MADE AGAINST THE BOND OR THE NUMBER OF YEARS THE BOND REMAINED
9 IN FORCE. ANY SURETY ISSUING A BOND PURSUANT TO THIS SUBDIVISION SHALL
10 BE REQUIRED TO PROVIDE SIXTY DAYS' NOTICE TO THE COMMISSIONER OF THE
11 CITY AGENCY DESIGNATED PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION PRIOR
12 TO THE EFFECTIVE DATE OF CANCELLATION OF THE BOND;

13 G. SHALL CONTAIN ADEQUATE REGULATORY AND ENFORCEMENT CRITERIA;

14 H. MAY PROVIDE FOR THE IMPOSITION OF AN ANNUAL FEE FOR SUCH PERMIT NOT
15 TO EXCEED TWO HUNDRED SEVENTY-FIVE DOLLARS PER VEHICLE;

16 I. SHALL PROVIDE THAT SUCH FEES SHALL BE CREDITED TO THE GENERAL FUND
17 OF THE CITY; AND

18 J. MAY PROVIDE FOR:

19 (A) A CIVIL PENALTY FOR LOADING OR UNLOADING PASSENGERS ON A CITY
20 STREET WITHOUT A PERMIT OR FOR FAILURE TO COMPLY WITH ANY PERMIT
21 REQUIREMENTS OR RESTRICTION PROVIDED THAT SUCH CIVIL PENALTIES SHALL NOT
22 BE MORE THAN ONE THOUSAND DOLLARS, AND FOR A SECOND OR SUBSEQUENT
23 VIOLATION WITHIN TWO YEARS OF THE FIRST VIOLATION SHALL NOT BE MORE THAN
24 TWENTY-FIVE HUNDRED DOLLARS; AND

25 (B) SUSPENSION OR REVOCATION OF A PERMIT FOR FAILURE TO COMPLY WITH
26 ANY PERMIT REQUIREMENTS OR RESTRICTIONS.

27 5. NO ORDINANCE SHALL BE ADOPTED PURSUANT TO THIS SECTION UNTIL A
28 PUBLIC HEARING THEREON HAS BEEN HAD IN THE SAME MANNER AS REQUIRED FOR
29 PUBLIC HEARINGS ON A LOCAL LAW PURSUANT TO THE MUNICIPAL HOME RULE LAW.

30 S 2. This act shall take effect immediately.