

4313--B

Cal. No. 348

2011-2012 Regular Sessions

I N S E N A T E

March 29, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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,

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

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1 HOWEVER, THAT SUCH TERM SHALL NOT INCLUDE A SCHOOL BUS; OR A BUS PROVID-
2 ING PUBLIC TRANSPORTATION; OR A CHARTER BUS.

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

6 F. "PUBLIC TRANSPORTATION" SHALL MEAN:

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

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

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

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

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

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

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

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

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

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

48 (V) THE PROPOSED INTERCITY BUS SCHEDULE;

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

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

53 C. ESTABLISH CRITERIA FOR ASSIGNING LOCATIONS TO PERMIT APPLICANTS,
54 WHICH SHALL INCLUDE TRAFFIC AND SAFETY CONSIDERATIONS, THE PREFERENCES
55 OF THE APPLICANT, CONSULTATION WITH THE LOCAL COMMUNITY BOARD AS

1 PROVIDED IN PARAGRAPH B OF SUBDIVISION FOUR OF THIS SECTION AND OTHER
2 CRITERIA DEEMED APPROPRIATE BY THE COMMISSIONER OF SUCH CITY AGENCY;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 E. HAVE THE AUTHORITY TO TEMPORARILY AMEND ANY APPROVED LOCATION FOR A
56 PERIOD OF UP TO NINETY DAYS FOR REASONS OF PUBLIC SAFETY OR OTHER EMER-

1 AGENCY OR TEMPORARY NEED AS DETERMINED BY SUCH CITY AGENCY WITHOUT PRIOR
2 CONSULTATION WITH THE LOCAL COMMUNITY BOARD; PROVIDED THAT SUCH CITY
3 AGENCY INFORMS THE AFFECTED COMMUNITY BOARD IN WRITING NO MORE THAN
4 THIRTY DAYS AFTER ANY SUCH TEMPORARY AMENDMENT.

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

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