

5013

2011-2012 Regular Sessions

I N   S E N A T E

May 2, 2011

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Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to prohibiting the operation of horse drawn cabs in the city of New York; and repealing certain provisions of such law relating thereto

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

1     Section 1. Subdivisions (c), (g) and (i) of section 17-326 of the  
2     administrative code of the city of New York are amended to read as  
3     follows:  
4     (c) "Work", a horse is considered to be at work when it is out of its  
5     stable and presented to the public as being available for riding[, pull-  
6     ing carriages, vehicles or other devices,] or when it is saddled or in  
7     harness or when it is being ridden [or is pulling a carriage, vehicle or  
8     device].  
9     (g) "Rental horse business" means a business enterprise which provides  
10    or offers the use of a horse to the public for a fee for the purpose of  
11    riding [or drawing a horse drawn vehicle or which operates a horse drawn  
12    vehicle for hire such as a horse drawn cab].  
13    (i) "Under tack" means that a horse is equipped for riding [or driv-  
14    ing].  
15    S 2. The administrative code of the city of New York is amended by  
16    adding a new section 17-326.1 to read as follows:  
17    S 17-326.1 CARRIAGE RIDES PROHIBITED. IT SHALL BE UNLAWFUL TO OFFER  
18    RIDES TO THE PUBLIC ON A VEHICLE DRAWN OR PULLED BY A CARRIAGE HORSE.  
19    S 3. Subdivisions a and d of section 17-327 of the administrative code  
20    of the city of New York, subdivision d as amended by local law number 22  
21    of the city of New York for the year 2002, are amended to read as  
22    follows:

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

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1 a. On and after January first, nineteen hundred eighty-two no person  
2 shall use or offer the use of a horse in a rental horse business unless  
3 such horse is licensed pursuant to the provisions of this subchapter.  
4 For purposes of this subchapter the use of a horse in a rental horse  
5 business means that a horse is used or offered for use by the public for  
6 a fee for the purpose of riding [or drawing a horse drawn vehicle or is  
7 used in the operation of a horse drawn vehicle for hire such as a horse  
8 drawn cab].

9 d. Application for a license or the renewal of a license shall be made  
10 to the department of health and mental hygiene. Such application shall  
11 contain the name and address of the owner of the horse and of the owner  
12 of the rental horse business in which such horse is to be used if such  
13 person is not the owner of the horse, the age, sex, color, markings and  
14 any other identifying marks such as brands or tattoos of the horse, the  
15 location of the stable where the horse is to be kept and any other  
16 information which the commissioner of health and mental hygiene may  
17 require. [An application with respect to a horse which is used in the  
18 operation of a "horse drawn cab" as defined in subchapter twenty-one of  
19 chapter two of title twenty of this code shall include the identifica-  
20 tion number required to be inscribed on such horses hoof pursuant to the  
21 rules and regulations of the department of consumer affairs.] The appli-  
22 cation shall be accompanied by the license or renewal fee.

23 S 4. Section 17-329 of the administrative code of the city of New York  
24 is amended to read as follows:

25 S 17-329 Disposition of licensed horse. A. The department shall be  
26 notified of the transfer of ownership or other disposition of a licensed  
27 horse within [ten] FIVE days thereafter. Such notice shall include the  
28 date of disposition and [if sold in New York city,] the name and address  
29 of the buyer or other transferee and such other information as the  
30 commissioner may prescribe.

31 B. A horse shall not be sold or disposed of except in a humane  
32 manner[.], WHICH, FOR THE PURPOSES OF THIS SUBCHAPTER SHALL MEAN ONE OF  
33 THE FOLLOWING:

34 1. THE OWNER SHALL SELL OR DONATE THE HORSE TO A PRIVATE INDIVIDUAL  
35 WHO SIGNS AN ASSURANCE THAT THE HORSE WILL NOT BE SOLD AND SHALL BE KEPT  
36 SOLELY AS A COMPANION ANIMAL AND NOT EMPLOYED IN ANOTHER HORSE-DRAWN  
37 CARRIAGE BUSINESS OR AS A WORK HORSE AND WILL BE CARED FOR HUMANELY FOR  
38 THE REMAINDER OF THE HORSE'S NATURAL LIFE; OR

39 2. THE OWNER SHALL SELL OR DONATE THE HORSE TO A DULY INCORPORATED  
40 ANIMAL SANCTUARY OR DULY INCORPORATED ANIMAL PROTECTION ORGANIZATION  
41 WHOSE PRESIDENT OR EXECUTIVE DIRECTOR SIGNS AN ASSURANCE THAT THE HORSE  
42 WILL NOT BE SOLD AND SHALL BE KEPT SOLELY AS A COMPANION ANIMAL AND NOT  
43 EMPLOYED IN ANOTHER HORSE-DRAWN CARRIAGE BUSINESS OR AS A WORK HORSE AND  
44 WILL BE CARED FOR HUMANELY FOR THE REMAINDER OF THE HORSE'S NATURAL  
45 LIFE.

46 3. RECORDS INDICATING THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE  
47 PRIVATE INDIVIDUAL, DULY INCORPORATED ANIMAL SANCTUARY OR DULY INCORPO-  
48 RATED ANIMAL PROTECTION ORGANIZATION TO WHOM THE HORSE WAS SOLD OR  
49 DONATED TOGETHER WITH THE ASSURANCE SPECIFIED ABOVE SHALL BE SENT BY THE  
50 OWNER TO THE DEPARTMENT WITHIN FIVE DAYS AFTER SUCH SALE OR DONATION. A  
51 COPY OF SUCH RECORD SHALL ALSO BE MAINTAINED AT THE STABLE.

52 S 5. Subdivisions g, h and l of section 17-330 of the administrative  
53 code of the city of New York, subdivisions g and l as amended by local  
54 law number 10 of the city of New York for the year 2010, and subdivision  
55 h as added by local law number 2 of the city of New York for the year  
56 1994, are amended to read as follows:

1 g. [1. Carriage horses shall not be at work for more than nine hours  
2 in any continuous twenty-four hour period.] Riding horses shall not be  
3 at work for more than eight hours in any continuous twenty-four hour  
4 period. Rest periods for [carriage horses and] riding horses shall be of  
5 such duration and at such intervals as the commissioner shall  
6 prescribe[, but rest periods for carriage horses shall in no event be  
7 for less than fifteen minutes after each two hour working period, and  
8 the time of such rest period shall be included in calculating the number  
9 of hours the horse has worked in any twenty-four hour period. During  
10 such rest periods, the person in charge of such carriage horses shall  
11 make fresh water available to the horse.

12 2. Carriage horses shall receive no less than five weeks of vacation  
13 or furlough every twelve months at a horse stable facility which allows  
14 daily access to paddock or pasture turnout. Proof of such vacation or  
15 furlough shall be provided upon request to the department and/or the  
16 ASPCA].

17 h. [Carriage horses shall not be driven at a pace faster than a trot.]  
18 Riding horses may be ridden at a canter but shall not be galloped.

19 1. An owner of a rental horse business shall keep such records as the  
20 commissioner of health shall prescribe including but not limited to a  
21 consecutive daily record of the movements of each licensed horse includ-  
22 ing the [driver's name and identification number, if applicable,]  
23 rider's name, the horse's identification number, [vehicle license plate  
24 number, if applicable,] time of leaving stable and time of return to  
25 stable. An owner of a rental horse business shall also keep written  
26 protocols for emergencies, including but not limited to primary and  
27 secondary emergency contact information for each horse owner and insur-  
28 ance company information, if applicable. Such records shall be kept on  
29 the premises of the stable where the horses are kept and shall be avail-  
30 able for inspection. The commissioner may, in his or her discretion,  
31 require a time clock, date stamp or time stamp where such commissioner  
32 believes it is appropriate.

33 S 6. Subdivisions o and p of section 17-330 of the administrative code  
34 of the city of New York are REPEALED.

35 S 7. Paragraph 1 of subdivision a of section 17-331 of the administra-  
36 tive code of the city of New York is amended to read as follows:

37 1. Two members shall be appointed from among the owners of rental  
38 horse businesses operating within the city[, one of whom shall be repre-  
39 sentative of the interests of owners of riding horses and one of whom  
40 shall be representative of the interests of owners of carriage horses].

41 S 8. Subdivision a of section 17-334 of the administrative code of the  
42 city of New York is REPEALED and subdivisions b and c are relettered  
43 subdivisions a and b.

44 S 9. Section 17-334.1 of the administrative code of the city of New  
45 York is REPEALED.

46 S 10. Sections 19-174 and 19-175 of the administrative code of the  
47 city of New York are REPEALED.

48 S 11. Section 20-371 of the administrative code of the city of New  
49 York, as amended by local law number 31 of the city of New York for the  
50 year 1995, is amended to read as follows:

51 S 20-371 Licensing of sight-seeing buses[, horse drawn cabs and horse  
52 drawn cab drivers]. Legislative findings. The legislative findings here-  
53 tofore made in relation to the business of sight-seeing buses [and horse  
54 drawn cabs] in the city of New York and set forth in local law number  
55 ten of nineteen hundred sixty-four continue to be valid; such businesses  
56 are vested with a public interest and their regulation and control

1 continue to be necessary and essential in order to cope with certain  
2 evils and hazards which existed in the absence of governmental super-  
3 vision. The supervision formerly was reposed in the police commissioner,  
4 but recent experience and study indicate that jurisdiction over such  
5 businesses should be transferred to the commissioner. [It is further  
6 found that the present number of horse drawn cabs licensed in the city  
7 of New York is adequate to meet the public need and demand and should be  
8 preserved, unless the commissioner finds that additional licenses are  
9 necessary and advisable.]

10 S 12. Subdivisions 1 and 3 of section 20-372 of the administrative  
11 code of the city of New York, as amended by local law number 31 of the  
12 city of New York for the year 1995, are amended to read as follows:

13 1. "Owner" shall include any person, firm, partnership, corporation or  
14 association owning and operating a sight-seeing bus or buses, [or horse  
15 drawn cab or cabs,] and shall include a purchaser under a reserve title  
16 contract, conditional sales agreement or vendor's agreement and the  
17 lessee of such vehicle or vehicles under a written lease or similar  
18 contract provided such purchaser or lessee of sight-seeing bus or buses  
19 shall be entitled to obtain in his or her name a license or licenses  
20 therefor from the commissioner of motor vehicles of the state of New  
21 York.

22 3. "Inspection card" shall designate the card issued by the commis-  
23 sioner for the sight-seeing bus licensed [or horse drawn cab licensed],  
24 which card shall display the license number and capacity of such vehi-  
25 cle.

26 S 13. Subdivisions 5, 6, 7 and 8 of section 20-372 of the administra-  
27 tive code of the city of New York are REPEALED and subdivisions 9 and 10  
28 are renumbered subdivisions 5 and 6.

29 S 14. Subdivisions a and b of section 20-373 of the administrative  
30 code of the city of New York are amended to read as follows:

31 a. It shall be unlawful to operate or permit another to operate for  
32 hire a sight-seeing bus [or horse-drawn cab] within the city unless the  
33 owner shall have first obtained a license therefor from the commission-  
34 er. [An applicant for a horse-drawn cab license shall be at least eigh-  
35 teen years of age.]

36 b. Fees. The original and renewal license fee for each sight-seeing  
37 bus shall be fifty dollars [and for each horse-drawn cab shall be fifty  
38 dollars].

39 S 15. Subdivisions c and d of section 20-373 of the administrative  
40 code of the city of New York are REPEALED.

41 S 16. Subdivisions a and b of section 20-374 of the administrative  
42 code of the city of New York are amended to read as follows:

43 a. Any person, firm, partnership, corporation or association, owning  
44 or operating a sight-seeing bus, or buses[, or horse-drawn cab, or cabs]  
45 engaging in the business of transporting passengers in, about, over and  
46 upon any of the streets, avenues, bridges, highways, boulevards or  
47 public places within the limits of the city of New York, shall be issued  
48 a license for each bus [or cab] so operating, provided, however any such  
49 person, firm, partnership, corporation or association owning or operat-  
50 ing a sight-seeing bus or buses, shall first have obtained a license or  
51 licenses, as he or she shall be entitled to receive from the commission-  
52 er of motor vehicles of the state of New York as made and provided by  
53 law.

54 b. It shall be unlawful for a license, after being issued by the  
55 commissioner, to be transferred to any person, firm, partnership, corpo-  
56 ration or association for any cause whatsoever[, except that licenses

1 for horse-drawn cabs may be transferred with the approval of the commis-  
2 sioner. Upon voluntary sale or transfer of a licensed horse-drawn cab by  
3 the holder of a license or his or her legal representative, the licensee  
4 shall immediately notify the commissioner of his or her intention to  
5 replace such horse-drawn cab, or shall surrender his or her license. If  
6 the license is surrendered, the vendee or transferee may make applica-  
7 tion to the commissioner for the licensing of the horse-drawn cab so  
8 purchased. A new license shall then be issued by the commissioner in  
9 place of the license so surrendered, provided the applicant has demon-  
10 strated to the satisfaction of the commissioner that he or she is quali-  
11 fied to assume the duties and obligations of a horse-drawn cab license].

12 S 17. Subdivision c of section 20-374 of the administrative code of  
13 the city of New York is REPEALED.

14 S 18. Section 20-375 of the administrative code of the city of New  
15 York, as amended by local law number 2 of the city of New York for the  
16 year 1994, is amended to read as follows:

17 S 20-375 License plate. Upon the payment of the license fee the  
18 commissioner shall issue a license to the owner of the sightseeing bus  
19 [or horse drawn cab] together with a license plate to be securely  
20 affixed to a conspicuous and indispensable part of such sightseeing bus  
21 [or securely and conspicuously affixed to the rear axle of such horse  
22 drawn cab,] on which shall be clearly set forth the license number of  
23 such sightseeing bus [or horse drawn cab]. The license plate issued to  
24 the licensee may, in the discretion of the commissioner, be a plate of a  
25 permanent nature with a replaceable date tag attached thereto, indicat-  
26 ing the expiration date of the plate during each license year and the  
27 issuance of such a plate with such date tag to a person possessing such  
28 a plate, shall be deemed issuance of a license plate. Such license plate  
29 and the replaceable date tag to be issued from year to year to be  
30 attached thereto, shall be of such material, form, design and dimension  
31 and set forth such distinguishing number or other identification marks  
32 as the commissioner shall prescribe. The commissioner upon renewal of  
33 the license hereunder, may continue the use of the license plate for as  
34 many additional license years as he or she in his or her discretion may  
35 determine, in which event he or she shall issue and deliver to the  
36 licensee a replaceable date tag as evidence of renewal of the license,  
37 which shall be attached or affixed in such manner as he or she may  
38 prescribe by rule. The failure to affix or display such date tag in a  
39 manner prescribed by the commissioner shall constitute a violation of  
40 this section. In the event of the loss, mutilation or destruction of any  
41 license plate or date tag issued hereunder, the owner may file such  
42 statement and proof of facts as the commissioner shall require, with a  
43 fee of twenty-five dollars, at the department, and the department shall  
44 issue a duplicate or substitute license plate or date tag.

45 S 19. Sections 20-377 and 20-377.1 of the administrative code of the  
46 city of New York are REPEALED.

47 S 20. Section 20-378 of the administrative code of the city of New  
48 York is amended to read as follows:

49 S 20-378 Periodic inspection. The license department shall cause all  
50 sight-seeing buses [and horse-drawn cabs] now, or hereafter licensed, to  
51 be inspected at least once every four months. The date of such  
52 inspection and the signature of the person making the inspection shall  
53 be recorded upon the inspection card in the spaces provided therefor.

54 S 21. Section 20-379 of the administrative code of the city of New  
55 York is amended to read as follows:

1 S 20-379 Form of inspection card. The commissioner shall prescribe an  
2 appropriate form of inspection card for sight-seeing buses [and horse-  
3 drawn cabs] and the manner in which such card and the sight-seeing bus  
4 driver's [and horse-drawn cab driver's] identification cards shall be  
5 displayed.

6 S 22. Sections 20-380, 20-381, 20-381.1, 20-381.2 and 20-382 of the  
7 administrative code of the city of New York are REPEALED.

8 S 23. Section 20-383 of the administrative code of the city of New  
9 York, as amended by local law number 2 of the city of New York for the  
10 year 1994, the section number, the section heading and subdivision a as  
11 amended by local law number 41 of the city of New York for the year  
12 2005, is amended to read as follows:

13 S 20-383 Suspensions and revocations. [a.] After notice and opportu-  
14 nity to be heard, the commissioner may suspend or revoke any sight-see-  
15 ing bus license where the holder has failed to comply with any  
16 provisions of this subchapter or of the rules promulgated thereunder, or  
17 with any other laws or rules governing sight-seeing buses, or which  
18 sight-seeing bus is otherwise found to be unfit for operation. Such  
19 suspension shall remain in effect until compliance and fitness have been  
20 established by the licensee and accepted by the department. Grounds for  
21 suspension or revocation shall include, but not be limited to, installa-  
22 tion of an engine which does not meet the requirements of subdivision b  
23 of section 20-376 of this subchapter, being found to have violated the  
24 requirements for diesel fuel-powered sight-seeing buses contained in  
25 section 24-163.6 of the administrative code, failure to submit a bus for  
26 inspection, installation of an engine not covered by a certificate of  
27 conformity in a vehicle which was originally manufactured with such an  
28 engine and installation of an engine of any model year preceding the  
29 year of manufacture in a vehicle which was originally manufactured with  
30 an engine covered by a certificate of conformity.

31 [b. Any driver of a horse drawn cab found to have committed within any  
32 twelve-month period, in the aggregate, at least three violations of this  
33 subchapter shall have his or her license suspended by the commissioner  
34 for a period of not less than three months. For purposes of this subdivi-  
35 sion, all violations written on any one day shall constitute a single  
36 violation.

37 c. Notwithstanding the provisions of subdivision b of this section,  
38 any driver of a horse drawn cab found to have committed within any twen-  
39 ty-four month period, in the aggregate, at least five violations of this  
40 subchapter shall have his or her license suspended by the commissioner  
41 for six months. For purposes of this subdivision, all violations written  
42 on any one day shall constitute a single violation.

43 d. Notwithstanding the provisions of subdivisions b and c of this  
44 section, any driver of a horse drawn cab found guilty of one violation  
45 of subdivision d of section 20-381.1 of the code or sections three  
46 hundred fifty-one, three hundred fifty-three, three hundred fifty-five  
47 through three hundred sixty-two or three hundred sixty-nine of the New  
48 York state agriculture and markets law or who is found guilty of a  
49 violation of this subchapter while his or her license is suspended,  
50 shall have his or her license revoked. A driver whose license has been  
51 revoked in accordance with this provision may not apply for a new  
52 license for five years from the date of revocation.]

53 S 24. This act shall take effect on the one hundred eightieth day  
54 after it shall have become a law.