S T A T E O F N E W Y O R K

9378--B

I N A S S E M B L Y

April 23, 2014

Introduced by M. of A. CRESPO -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the transportation law, in relation to regulation of party buses; to amend the vehicle and traffic law, in relation to establishing a party bus endorsement for drivers licenses; and to amend the penal law, in relation to unlawfully dealing with a child in the first degree

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

Section 1. Section 2 of the transportation law is amended by adding a new subdivision 20-a to read as follows:

20-A. "PARTY BUS" MEANS ANY MOTOR VEHICLE HAVING A CAPACITY OF TWENTY OR MORE PASSENGERS, OPERATED BY A CONTRACT CARRIER OF PASSENGERS BY MOTOR VEHICLE, WITHIN WHICH PASSENGERS ARE CAPABLE AND PERMITTED TO REGULARLY STAND AND CIRCULATE THROUGHOUT THE VEHICLE, AND IN WHICH FOOD, BEVERAGES AND ENTERTAINMENT MAY BE PROVIDED OR SOLD TO SUCH PASSENGERS.

S 2. The transportation law is amended by adding a new section 160 to read as follows:

S 160. REGULATION OF PARTY BUSES. 1. THE PROVISIONS OF THIS SECTION SHALL APPLY TO THE OPERATION OF ANY PARTY BUS IN WHICH ALL THE PASSENGERS, EXCLUDING THE DRIVER AND ANY CHAPERONES, ARE UNDER THE AGE OF TWENTY-ONE YEARS.

2. NO CONTRACT CARRIER OF PASSENGERS BY MOTOR VEHICLE SHALL ALLOW A PARTY BUS, SPECIFIED IN SUBDIVISION ONE OF THIS SECTION, TO BE OPERATED BY A DRIVER WHO DOES NOT HOLD A PARTY BUS ENDORSEMENT ISSUED PURSUANT TO SUBPARAGRAPH (XI) OF PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION FIVE HUNDRED ONE OF THE VEHICLE AND TRAFFIC LAW.

3. EVERY PARTY BUS, SPECIFIED IN SUBDIVISION ONE OF THIS SECTION, SHALL BE EQUIPPED WITH A WARNING SYSTEM WHICH PROVIDES NOTICE TO THE DRIVER OF SUCH BUS AND THOSE ADJACENT TO ANY DOOR, WINDOW OR OTHER ACCESS PORTAL TO THE EXTERIOR OF SUCH BUS THAT SUCH DOOR, WINDOW OR

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

LBD14780-05-4

OTHER ACCESS PORTAL HAS BEEN OPENED IN AN UNAUTHORIZED MANNER. SUCH WARNING SYSTEM SHALL CAUSE AN AUDIBLE ALARM TO SOUND AND A RED LIGHT TO ILLUMINATE ON THE DRIVING DASHBOARD OF THE BUS WHEN ACTIVATED AND CAN BE SEEN AND HEARD BY THOSE NEAR SUCH DOOR, WINDOW OR PORTAL.

4. EVERY PARTY BUS, SPECIFIED IN SUBDIVISION ONE OF THIS SECTION, SHALL PRIOR TO DEPARTING ITS POINT OF ORIGIN AND DURING THE ENTIRETY OF THE PROVISION OF THE TRANSPORTATION AND SERVICES BY THE PARTY BUS, BE STAFFED WITH NOT LESS THAN ONE CHAPERONE, OVER THE AGE OF TWENTY-ONE YEARS OF AGE, FOR EACH TWENTY PASSENGERS UNDER AGE OF TWENTY-ONE YEARS; PROVIDED, HOWEVER, THAT IF SUCH PARTY BUS HAS MORE THAN ONE LEVEL OR FLOOR, EACH LEVEL OR FLOOR SHALL BE STAFFED BY AT LEAST ONE CHAPERONE. CHAPERONES SHALL BE PROVIDED BY THE CONTRACT CARRIER AND/OR THE PARTY CONTRACTING FOR THE PARTY BUS. UNDER NO CIRCUMSTANCES SHALL THE DRIVER OF A PARTY BUS BE DESIGNATED AS A CHAPERONE.

5. UPON VIOLATION OF ANY PROVISION OF THIS SECTION OR ANY OTHER LAW, RULE OR REGULATION BY THE PASSENGERS OF A PARTY BUS, SPECIFIED IN SUBDIVISION ONE OF THIS SECTION, THE DRIVER THEREOF SHALL IMMEDIATELY RETURN TO THE POINT OF ORIGIN OF THE TRANSPORTATION. COMPLIANCE WITH THE PROVISIONS OF THIS SUBDIVISION SHALL GRANT THE PARTY BUS DRIVER AND THE CONTRACT CARRIER OF PASSENGERS BY MOTOR VEHICLE WITH BOTH CIVIL AND CRIMINAL IMMUNITY FOR ANY SUCH VIOLATIONS AND BREACH OF CONTRACT.

6. THE CONTRACT FOR THE PROVISION OF TRANSPORTATION AND SERVICES BY A PARTY BUS, AS SPECIFIED IN SUBDIVISION ONE OF THIS SECTION, SHALL INCLUDE THEREIN THE PROVISIONS OF THIS SECTION, ALL SAFETY RULES FOR SUCH BUSES, AND THAT THE PASSENGERS UNDER THE AGE OF TWENTY-ONE YEARS OF AGE SHALL BE PROHIBITED FROM CONSUMING OR POSSESSING ALCOHOLIC BEVERAGES, CONTROLLED SUBSTANCES OR MARIHUANA. SUCH CONTRACT SHALL INCLUDE AN ATTESTATION THAT ANY PARTY ALLOWING ANY VIOLATION THEREOF MAY BE HELD BOTH CIVILLY AND CRIMINALLY LIABLE. EVERY SUCH CONTRACT SHALL BE SIGNED BY THE CONTRACTING PARTY, THE CONTRACT CARRIER OF PASSENGERS BY MOTOR VEHICLE AND THE DRIVER OF THE PARTY BUS.

7. PRIOR TO THE DEPARTURE FROM THE POINT OF ORIGIN OF A PARTY BUS, SPECIFIED IN SUBDIVISION ONE OF THIS SECTION, THE CONTRACT CARRIER OF PASSENGERS BY MOTOR VEHICLE SHALL READ A STATEMENT TO ALL PASSENGERS RELATING TO REQUIREMENTS OF THIS SECTION AND ALL OTHER SAFETY FEATURES AND REQUIREMENTS OF SUCH PARTY BUS.

8. EVERY CONTRACT CARRIER OF PASSENGERS BY MOTOR VEHICLE WHICH OPERATES ONE OR MORE PARTY BUSES SHALL CONSPICUOUSLY POST ITS FEDERAL DEPARTMENT OF TRANSPORTATION REGISTRATION NUMBER AND ITS PERMIT NUMBER ISSUED BY THE DEPARTMENT PURSUANT TO THIS ARTICLE UPON EACH OF ITS:

(A) PRINTED AND ELECTRONIC ADVERTISEMENTS WHICH ADVERTISE A PARTY BUS OR PARTY BUSES;

(B) INTERNET WEBSITES WHICH OFFER A PARTY BUS OR PARTY BUSES FOR LEASE, RENTAL OR CHARTER; AND

(C) PARTY BUSES.

9. UPON THE OCCASION OF THREE OR MORE VIOLATIONS OF THE PROVISIONS OF THIS SECTION OR ANY RULES AND REGULATION ADOPTED PURSUANT THERETO, OR ANY OTHER PROVISION OF LAW RELATING TO PARTY BUSES BY CONTRACT CARRIER OF PASSENGERS BY MOTOR VEHICLE OR ANY OF ITS DRIVERS, SUCH CARRIER'S PERMIT SHALL BE SUSPENDED BY THE COMMISSIONER FOR A PERIOD OF NOT LESS THAN SIX MONTHS.

S 3. Paragraph (b) of subdivision 2 of section 501 of the vehicle and traffic law is amended by adding a new subparagraph (xi) to read as follows:

(XI) PARTY BUS ENDORSEMENT. SHALL BE REQUIRED TO OPERATE A PARTY BUS PURSUANT TO SECTION ONE HUNDRED SIXTY OF THE TRANSPORTATION LAW.

S 4. Section 501 of the vehicle and traffic law is amended by adding a new subdivision 7 to read as follows:

7. PARTY BUS ENDORSEMENT. THE COMMISSIONER OF TRANSPORTATION SHALL BY RULE ESTABLISH THE REQUIREMENTS AND COURSE OF INSTRUCTION FOR THE GRANTING OF PARTY BUS ENDORSEMENTS.

S 5. Paragraph (a) of subdivision 2 of section 502 of the vehicle and traffic law, as amended by chapter 520 of the laws of 1991, is amended to read as follows:

(a) An applicant for a class A license or for a commercial driver's license which contains an H [or], an X OR A PARTY BUS endorsement, or which is valid for operation in interstate commerce shall be at least twenty-one years of age.

S 6. Section 260.20 of the penal law, as amended by chapter 362 of the laws of 1992 and the third undesignated paragraph as added by chapter 435 of the laws of 2010, is amended to read as follows:

S 260.20 Unlawfully dealing with a child in the first degree.

A person is guilty of unlawfully dealing with a child in the first degree when:

1. He OR SHE knowingly permits a child less than eighteen years old to enter or remain in or upon a place, premises or establishment where sexual activity as defined by article one hundred thirty, two hundred thirty or two hundred sixty-three of this chapter or activity involving controlled substances as defined by article two hundred twenty of this chapter or involving marihuana as defined by article two hundred twenty-one of this chapter is maintained or conducted, and he OR SHE knows or has reason to know that such activity is being maintained or conducted; or

2. He OR SHE gives or sells or causes to be given or sold any alcoholic beverage, as defined by section three of the alcoholic beverage control law, to a person less than twenty-one years old; except that this subdivision does not apply to the parent or guardian of such a person or to a person who gives or causes to be given any such alcoholic beverage to a person under the age of twenty-one years, who is a student in a curriculum licensed or registered by the state education department, where the tasting or imbibing of alcoholic beverages is required in courses that are part of the required curriculum, provided such alcoholic beverages are given only for instructional purposes during classes conducted pursuant to such curriculum.

It is no defense to a prosecution pursuant to THIS subdivision [two of this section] that the child acted as the agent or representative of another person or that the defendant dealt with the child as such.

It is an affirmative defense to a prosecution pursuant to THIS subdivision [two of this section] that the defendant who sold, caused to be sold or attempted to sell such alcoholic beverage to a person less than twenty-one years old, had not been, at the time of such sale or attempted sale, convicted of a violation of this section or section 260.21 of this article within the preceding five years[, and such defendant, subsequent to the commencement of the present prosecution, has completed an alcohol training awareness program established pursuant to subdivision twelve of section seventeen of the alcoholic beverage control law]. A defendant otherwise qualifying pursuant to this paragraph may request and shall be afforded a reasonable adjournment of the proceedings to enable him or her to complete such alcohol training awareness program[.]; OR

3. HE OR SHE, BEING THE DRIVER OF OR A CHAPERONE UPON A PARTY BUS PURSUANT TO SECTION ONE HUNDRED SIXTY OF THE TRANSPORTATION LAW, KNOW-

INGLY PERMITS ANY PERSON LESS THAN TWENTY-ONE YEARS OF AGE TO POSSESS OR CONSUME ANY ALCOHOLIC BEVERAGE, AS DEFINED IN SECTION THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW, OR ANY CONTROLLED SUBSTANCE OR MARIHUANA, AS DEFINED IN SECTION 220.00 OF THIS CHAPTER.

Unlawfully dealing with a child in the first degree is a class A misdemeanor.

S 6-a. The third undesignated paragraph of section 260.20 of the penal law, as amended by section six of this act, is amended to read as follows:

It is an affirmative defense to a prosecution pursuant to this subdivision that the defendant who sold, caused to be sold or attempted to sell such alcoholic beverage to a person less than twenty-one years old, had not been, at the time of such sale or attempted sale, convicted of a violation of this section or section 260.21 of this article within the preceding five years, AND SUCH DEFENDANT, SUBSEQUENT TO THE COMMENCEMENT OF THE PRESENT PROSECUTION, HAS COMPLETED AN ALCOHOL TRAINING AWARENESS PROGRAM ESTABLISHED PURSUANT TO SUBDIVISION TWELVE OF SECTION SEVENTEEN OF THE ALCOHOLIC BEVERAGE CONTROL LAW. A defendant otherwise qualifying pursuant to this paragraph may request and shall be afforded a reasonable adjournment of the proceedings to enable him or her to complete such alcohol training awareness program; or

S 7. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that section six-a of this act shall take effect upon the expiration of section 17 of the alcoholic beverage control law as provided in section 4 of chapter 118 of the laws of 2012; provided further, that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.