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

667

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. AVELLA, ESPAILLAT, KRUEGER, PERKINS, SERRANO -- 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:

Section 1. Subdivisions (c), (g) and (i) of section 17-326 of the administrative code of the city of New York are amended to read as follows:

(c) "Work", a horse is considered to be at work when it is out of its stable and presented to the public as being available for riding[, pulling carriages, vehicles or other devices,] or when it is saddled or in harness or when it is being ridden [or is pulling a carriage, vehicle or device].

(g) "Rental horse business" means a business enterprise which provides or offers the use of a horse to the public for a fee for the purpose of riding [or drawing a horse drawn vehicle or which operates a horse drawn vehicle for hire such as a horse drawn cab].

(i) "Under tack" means that a horse is equipped for riding [or driving].

S 2. The administrative code of the city of New York is amended by adding a new section 17-326.1 to read as follows:

S 17-326.1 CARRIAGE RIDES PROHIBITED. IT SHALL BE UNLAWFUL TO OFFER RIDES TO THE PUBLIC ON A VEHICLE DRAWN OR PULLED BY A CARRIAGE HORSE.

S 3. Subdivisions a and d of section 17-327 of the administrative code of the city of New York, subdivision d as amended by local law number 22

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

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of the city of New York for the year 2002, are amended to read as follows:

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

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

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

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

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

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

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

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

S 5. Subdivisions g, h and l of section 17-330 of the administrative code of the city of New York, subdivisions g and l as amended by local law number 10 of the city of New York for the year 2010, and subdivision

h as added by local law number 2 of the city of New York for the year 1994, are amended to read as follows:

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

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

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

l. An owner of a rental horse business shall keep such records as the commissioner of health shall prescribe including but not limited to a consecutive daily record of the movements of each licensed horse including the [driver's name and identification number, if applicable,] rider's name, the horse's identification number, [vehicle license plate number, if applicable,] time of leaving stable and time of return to stable. An owner of a rental horse business shall also keep written protocols for emergencies, including but not limited to primary and secondary emergency contact information for each horse owner and insurance company information, if applicable. Such records shall be kept on the premises of the stable where the horses are kept and shall be available for inspection. The commissioner may, in his or her discretion, require a time clock, date stamp or time stamp where such commissioner believes it is appropriate.

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

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

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

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

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

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

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

S 20-371 Licensing of sight-seeing buses[, horse drawn cabs and horse drawn cab drivers]. Legislative findings. The legislative findings heretofore made in relation to the business of sight-seeing buses [and horse drawn cabs] in the city of New York and set forth in local law number

ten of nineteen hundred sixty-four continue to be valid; such businesses are vested with a public interest and their regulation and control continue to be necessary and essential in order to cope with certain evils and hazards which existed in the absence of governmental supervision. The supervision formerly was reposed in the police commissioner, but recent experience and study indicate that jurisdiction over such businesses should be transferred to the commissioner. [It is further found that the present number of horse drawn cabs licensed in the city of New York is adequate to meet the public need and demand and should be preserved, unless the commissioner finds that additional licenses are necessary and advisable.]

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

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

3. "Inspection card" shall designate the card issued by the commissioner for the sight-seeing bus licensed [or horse drawn cab licensed], which card shall display the license number and capacity of such vehicle.

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

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

a. It shall be unlawful to operate or permit another to operate for hire a sight-seeing bus [or horse-drawn cab] within the city unless the owner shall have first obtained a license therefor from the commissioner. [An applicant for a horse-drawn cab license shall be at least eighteen years of age.]

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

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

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

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

b. It shall be unlawful for a license, after being issued by the commissioner, to be transferred to any person, firm, partnership, corporation or association for any cause whatsoever[, except that licenses for horse-drawn cabs may be transferred with the approval of the commissioner. Upon voluntary sale or transfer of a licensed horse-drawn cab by the holder of a license or his or her legal representative, the licensee shall immediately notify the commissioner of his or her intention to replace such horse-drawn cab, or shall surrender his or her license. If the license is surrendered, the vendee or transferee may make application to the commissioner for the licensing of the horse-drawn cab so purchased. A new license shall then be issued by the commissioner in place of the license so surrendered, provided the applicant has demonstrated to the satisfaction of the commissioner that he or she is qualified to assume the duties and obligations of a horse-drawn cab license].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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