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

395--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. DILAN, ADDABBO, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to requiring surfaces of certain motor vehicles to be cleared of accumulated snow, sleet, or hail; to amend the state finance law, the public authorities law and the transportation law, in relation to the snow and ice removal fund; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. The vehicle and traffic law is amended by adding a new section 1229-e to read as follows:

S 1229-E. CLEARANCE OF SNOW, SLEET, AND HAIL. 1. NO PERSON SHALL OPERATE A MOTOR VEHICLE ON A PUBLIC STREET OR HIGHWAY WHILE THERE IS AN ACCUMULATION OF SNOW, SLEET, OR HAIL ON THE ROOF OR CARGO BED SURFACES THEREOF, WHETHER OF ANY OCCUPANT COMPARTMENT, TRAILER, OR OTHER CARGO COMPARTMENT IN EXCESS OF THREE INCHES.

2. THE REMOVAL OF ACCUMULATED SNOW, SLEET, OR HAIL REQUIRED BY SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY DURING THE FALLING OF SNOW, SLEET, OR HAIL OR WITHIN THREE HOURS AFTER THE CESSATION OF THE FALLING THEREOF.

3. (A) THE OPERATOR OF A NON-COMMERCIAL VEHICLE IN VIOLATION OF THE PROVISIONS OF THIS SECTION, EXCLUDING A DISABLED OPERATOR, SHALL BE SUBJECT TO A FINE OF NOT LESS THAN ONE HUNDRED FIFTY DOLLARS NOR MORE THAN EIGHT HUNDRED FIFTY DOLLARS.

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

LBD00411-02-4

(B) THE OPERATOR, OWNER, LESSEE, BAILEE OR ANY ONE OF THE AFORESAID IF A COMMERCIAL MOTOR VEHICLE SHALL BE SUBJECT TO A FINE OF NOT LESS THAN FOUR HUNDRED FIFTY DOLLARS NOR MORE THAN TWELVE HUNDRED FIFTY DOLLARS.

(C) ALL FINES CREDITED TO THE STATE PURSUANT TO THIS SECTION SHALL BE DEPOSITED TO THE SNOW AND ICE REMOVAL FUND ESTABLISHED PURSUANT TO SECTION SEVENTY-FOUR-A OF THE STATE FINANCE LAW.

4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY AUTOMOBILE TRANSPORTER, MOTORCYCLE, OR AUTHORIZED EMERGENCY VEHICLE.

S 2. Section 125 of the vehicle and traffic law, as amended by chapter 365 of the laws of 2008, is amended to read as follows:

S 125. Motor vehicles. Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (a-1) electric personal assistive mobility devices operated outside a city with a population of one million or more, (b) vehicles which run only upon rails or tracks, (c) snowmobiles as defined in article forty-seven of this chapter, and (d) all terrain vehicles as defined in article forty-eight-B of this chapter. For the purposes of title four of this chapter, the term motor vehicle shall exclude fire and police vehicles other than ambulances. For the purposes of titles four and five, AND SECTION TWELVE HUNDRED TWENTY-NINE-E of this chapter the term motor vehicles shall exclude farm type tractors and all terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

S 3. Section 200 of the vehicle and traffic law is amended by adding a new subdivision 3 to read as follows:

3. THE COMMISSIONER SHALL SUBMIT A REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON AN ANNUAL BASIS FOR THE TEN YEARS COMMENCING ON AUGUST THIRTY-FIRST, TWO THOUSAND FIFTEEN CONCERNING THE IMPLEMENTATION OF SECTION TWELVE HUNDRED TWENTY-NINE-E OF THIS CHAPTER AND SECTION SEVENTY-FOUR-A OF THE STATE FINANCE LAW. SUCH REPORT SHALL INCLUDE INFORMATION ON:

(A) THE AMOUNT OF FUNDS MADE AVAILABLE TO THE COMMISSIONER AND THE NEW YORK STATE THRUWAY AUTHORITY AND THE USE OF SUCH FUNDS;

(B) HOW MANY SUMMONSES WERE ISSUED PURSUANT TO SECTION TWELVE HUNDRED TWENTY-NINE-E OF THIS CHAPTER;

(C) THE OPERATION OF THE GRANT PROGRAM ESTABLISHED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION TWENTY-THREE OF THE TRANSPORTATION LAW;

(D) THE PUBLIC AWARENESS PROGRAM CONDUCTED PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TWO OF SECTION TWENTY-THREE OF THE TRANSPORTATION LAW;

(E) THE SEVERITY AND FREQUENCY OF TRAFFIC INCIDENTS INVOLVING SNOW OR ICE NOT PROPERLY REMOVED FROM VEHICLES BEFORE AND AFTER THE IMPLEMENTATION OF SECTION TWELVE HUNDRED TWENTY-NINE-E OF THIS CHAPTER; AND

(F) THE OPERATION OF SUCH SNOW AND ICE REMOVAL SITES ESTABLISHED BY THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION PURSUANT TO SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW AND THE NEW YORK STATE THRUWAY AUTHORITY PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION TWENTY-THREE OF THE TRANSPORTATION LAW.

S 4. The state finance law is amended by adding a new section 74-a to read as follows:

S 74-A. SNOW AND ICE REMOVAL FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXA-

TION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "SNOW AND ICE REMOVAL FUND".

2. THE SNOW AND ICE REMOVAL FUND SHALL CONSIST OF ALL FINES CREDITED TO THE STATE FOR A VIOLATION OF SECTION TWELVE HUNDRED TWENTY-NINE-E OF THE VEHICLE AND TRAFFIC LAW, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS IN THE SNOW AND ICE REMOVAL FUND MAY BE INVESTED BY THE COMPTROLLER PURSUANT TO THE PROVISIONS OF SECTION NINETY-EIGHT-A OF THIS ARTICLE AND ANY INCOME RECEIVED BY THE COMPTROLLER FROM SUCH INVESTMENTS SHALL BE ADDED TO AND BECOME PART OF, AND SHALL BE USED FOR THE PURPOSES OF SUCH FUND. ALL DEPOSITS OF SUCH MONEY SHALL, IF REQUIRED BY THE COMPTROLLER, BE SECURED BY OBLIGATIONS OF THE UNITED STATES OR OF THE STATE OF MARKET VALUE EQUAL AT ALL TIMES TO THE AMOUNT OF THE DEPOSIT AND ALL BANKS AND TRUST COMPANIES ARE AUTHORIZED TO GIVE SUCH SECURITIES FOR SUCH DEPOSITS.

4. MONEYS OF THE FUND, FOLLOWING APPROPRIATION BY THE LEGISLATURE, SHALL BE ALLOCATED UPON A CERTIFICATE OF APPROVAL OF AVAILABILITY BY THE DIRECTOR OF THE BUDGET SOLELY FOR THE PURPOSES SET FORTH IN THIS SECTION.

5. MONEYS IN THE FUND SHALL BE ALLOCATED IN THE FOLLOWING MANNER:

(A) TEN PERCENT OF THE MONEYS SHALL BE TRANSFERRED TO THE DEPARTMENT OF MOTOR VEHICLES FOR THE COLLECTION AND REPORTING OF DATA ON THE IMPLEMENTATION OF SECTION TWELVE HUNDRED TWENTY-NINE-E OF THE VEHICLE AND TRAFFIC LAW.

(B) TWENTY-FIVE PERCENT OF THE MONEYS SHALL BE TRANSFERRED TO THE DEPARTMENT OF TRANSPORTATION FOR THE PURPOSES OF PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION TWENTY-THREE OF THE TRANSPORTATION LAW.

(C) TWENTY-FIVE PERCENT OF THE MONEYS SHALL BE TRANSFERRED TO THE NEW YORK STATE THRUWAY AUTHORITY FOR PURPOSES OF SECTION THREE HUNDRED EIGHTY-NINE OF THE PUBLIC AUTHORITIES LAW.

(D) THIRTY PERCENT OF THE MONEYS SHALL BE TRANSFERRED TO THE DEPARTMENT OF TRANSPORTATION FOR THE GRANT PROGRAM ESTABLISHED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION TWENTY-THREE OF THE TRANSPORTATION LAW.

(E) TEN PERCENT OF THE MONEYS SHALL BE TRANSFERRED TO THE DEPARTMENT OF TRANSPORTATION FOR THE PUBLIC AWARENESS PROGRAM CONDUCTED PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TWO OF SECTION TWENTY-THREE OF THE TRANSPORTATION LAW.

S 5. The public authorities law is amended by adding a new section 389 to read as follows:

S 389. SNOW AND ICE REMOVAL SITES. 1. FOR THE PURPOSES OF THIS SECTION, THE TERM "COMMON CARRIER" SHALL MEAN ANY PERSON THAT TRANSPORTS PASSENGERS BY MOTOR VEHICLE FOR COMPENSATION BY PROVIDING SERVICE FOR THE GENERAL PUBLIC ON AN INDIVIDUAL FARE BASIS OVER REGULAR OR IRREGULAR ROUTES OR ANY PERSON THAT TRANSPORTS PROPERTY BY MOTOR VEHICLE FOR COMPENSATION FOR THE GENERAL PUBLIC. IT SHALL INCLUDE A BUS LINE WHICH IS A MOTOR VEHICLE THAT IS USUALLY CHARACTERIZED BY THE USE OF VEHICLES HAVING A SEATING CAPACITY OF GREATER THAN TWENTY PASSENGERS; BY MULTIPLE PICKUP AND DISCHARGE POINTS ALONG DESIGNATED ROUTES; AND BY NO PREARRANGEMENTS OR RESERVATIONS BY PASSENGERS.

2. USING THE MONEYS ALLOCATED FROM THE SNOW AND ICE REMOVAL FUND ESTABLISHED PURSUANT TO SECTION SEVENTY-FOUR-A OF THE STATE FINANCE LAW, THE AUTHORITY SHALL ESTABLISH SNOW AND ICE REMOVAL SITES FOR COMMON CARRIERS ON THE THRUWAY. THE AUTHORITY SHALL USE THE MONEYS ALLOCATED FROM PARAGRAPH (C) OF SUBDIVISION FIVE OF SECTION SEVENTY-FOUR-A OF THE STATE FINANCE LAW FOR THE PURCHASE, INSTALLATION AND OPERATION OF SNOW

AND ICE REMOVAL EQUIPMENT AT SUCH REST AREAS AND SERVICE AREAS UNDER ITS JURISDICTION AS THE AUTHORITY DEEMS APPROPRIATE.

S 6. The transportation law is amended by adding a new section 23 to read as follows:

S 23. SNOW AND ICE REMOVAL. 1. FOR THE PURPOSES OF THIS SECTION, THE TERM "COMMON CARRIER" SHALL MEAN ANY PERSON THAT TRANSPORTS PASSENGERS BY MOTOR VEHICLE FOR COMPENSATION BY PROVIDING SERVICE FOR THE GENERAL PUBLIC ON AN INDIVIDUAL FARE BASIS OVER REGULAR OR IRREGULAR ROUTES OR ANY PERSON THAT TRANSPORTS PROPERTY BY MOTOR VEHICLE FOR COMPENSATION FOR THE GENERAL PUBLIC. IT SHALL INCLUDE A BUS LINE WHICH IS A MOTOR VEHICLE THAT IS USUALLY CHARACTERIZED BY THE USE OF VEHICLES HAVING A SEATING CAPACITY OF GREATER THAN TWENTY PASSENGERS; BY MULTIPLE PICKUP AND DISCHARGE POINTS ALONG DESIGNATED ROUTES; AND BY NO PREARRANGEMENTS OR RESERVATIONS BY PASSENGERS.

2. USING THE MONEYS ALLOCATED FROM THE SNOW AND ICE REMOVAL FUND ESTABLISHED PURSUANT TO SECTION SEVENTY-FOUR-A OF THE STATE FINANCE LAW, THE DEPARTMENT SHALL:

(A) ESTABLISH SNOW AND ICE REMOVAL SITES FOR COMMON CARRIERS ON SUCH INTERSTATE AND STATE HIGHWAYS THAT ARE UNDER THE JURISDICTION OF THE DEPARTMENT. THE DEPARTMENT SHALL USE THE MONEYS ALLOCATED FROM PARAGRAPH (B) OF SUBDIVISION FIVE OF SECTION SEVENTY-FOUR-A OF THE STATE FINANCE LAW FOR THE PURCHASE, INSTALLATION AND OPERATION OF SNOW AND ICE REMOVAL EQUIPMENT AT SUCH REST AREAS AND SERVICE AREAS UNDER ITS JURISDICTION AS THE COMMISSIONER DEEMS APPROPRIATE.

(B) ESTABLISH AND ADMINISTER A SNOW AND ICE REMOVAL GRANT PROGRAM. THE DEPARTMENT SHALL USE THE MONEYS ALLOCATED FROM PARAGRAPH (B) OF SUBDIVISION FIVE OF SECTION SEVENTY-FOUR-A OF THE STATE FINANCE LAW FOR THE PURPOSE OF PROVIDING COMMON CARRIERS WITH MATCHING FUNDS TO PURCHASE SNOW AND ICE REMOVAL EQUIPMENT; PROVIDED, HOWEVER, THAT

(I) NO GRANT TO ANY COMMON CARRIER SHALL EXCEED TEN PERCENT OF THE TOTAL ALLOCATIONS FOR SUCH GRANT PROGRAM;

(II) EACH APPLICANT SHALL BE ELIGIBLE TO RECEIVE ONLY ONE SUCH GRANT IN ANY TWENTY-FOUR MONTH PERIOD;

(III) NO PART OF ANY SUCH GRANT SHALL BE USED FOR SALARIES OR ANY OTHER SERVICES OTHER THAN FOR THE PURCHASE AND INSTALLATION OF SNOW AND ICE REMOVAL EQUIPMENT; AND

(IV) THE COMMON CARRIER HAS COMMITTED SUFFICIENT FUNDS TO FULFILL THE MATCH REQUIREMENTS OF THIS GRANT.

(C) IMPROVE PUBLIC AWARENESS OF THE HAZARDS OF DRIVING WITH ACCUMULATIONS OF SNOW AND ICE ON THE ROOF OR CARGO BED SURFACES OF MOTOR VEHICLES AND THE PROHIBITION THEREOF. THE DEPARTMENT SHALL USE THE MONEYS ALLOCATED FROM PARAGRAPH (E) OF SUBDIVISION FIVE OF SECTION SEVENTY-FOUR-A OF THE STATE FINANCE LAW FOR THE PURPOSE OF SUCH PUBLIC AWARENESS CAMPAIGN THROUGH EDUCATIONAL AND INFORMATIONAL MATERIALS IN PRINT, AUDIO, VISUAL, ELECTRONIC OR OTHER MEDIA INCLUDING, BUT NOT LIMITED TO PUBLIC SERVICE ANNOUNCEMENTS AND ADVERTISEMENTS.

S 7. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided, however, that the amendments to section 200 of the vehicle and traffic law made by section three of this act shall expire and be deemed repealed September 1, 2024.