STATE OF NEW YORK

S. 6249 A. 6412

2023-2024 Regular Sessions

SENATE - ASSEMBLY

April 6, 2023

IN SENATE -- Introduced by Sen. WALCZYK -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

IN ASSEMBLY -- Introduced by M. of A. BARCLAY -- read once and referred to the Committee on Transportation

AN ACT to amend the highway law and the vehicle and traffic law, in relation to establishing minimum maintenance roads in designated towns; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The highway law is amended by adding a new section 205-c to read as follows:

§ 205-c. Minimum maintenance roads. 1. a. The town board of any designated town may, after a public hearing, adopt a local law designating any low-volume road or portion thereof providing agricultural or recreational land access, except for farm access roads or roads that provide access to an individual year-round residence at the time of designation, as a minimum maintenance road. No such law shall restrict farm operations in an agricultural district. Such local law shall not prevent the state from maintaining such road if the road passes over, or provides access to, state land. No such law designating a minimum maintenance road shall be effective until signs are posted advising the public that such road is a minimum maintenance road. No road, once designated a minimum maintenance road, shall be determined to have been abandoned pursuant to the provisions of subdivision one of section two hundred five of this article solely because it has been designated a minimum maintenance road.

b. At least forty-five days prior to the public hearing on such local law the town board having jurisdiction over such road shall issue find-

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

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ings that such road or portion thereof should be designated a minimum maintenance road. Such findings shall include, but not be limited to:

(i) the volume and type of motor vehicle traffic on such road;

(ii) a determination that the property owners of land abutting the road shall continue to have access to their property;

(iii) a determination that the users of the road traveling at a reasonable and prudent speed, under the circumstances, shall not be placed in a hazardous situation;

(iv) a determination that such road, or portion thereof, does not constitute a farm access road as defined in this section; and

(v) the effect of such designation on any farm operations dependent upon the road, and that such designation does not restrict farm operations in agricultural districts.

A copy of the town board's findings shall be made available for public inspection in the town clerk's office and posted to the town website if available.

A copy of the findings shall be sent to the school board of the school district in which each road is located and to the town planning board. Such school board and planning board may review the findings of the town board and within forty-five days file with the town clerk their recommendation and findings. In the event the school or planning board takes no action within the forty-five day review period the town board may proceed without said board's recommendation and findings. School or planning board review may be waived, shortened or extended upon mutual consent of said board and the town board. The town board of the town may, by resolution, accept, accept in part, or reject the recommendations of either the school or planning board prior to any vote upon the proposed local law.

A copy of the findings shall also be sent to the department of environmental conservation or any other relevant state agency that has jurisdiction over the land that the road proposed to be designated as minimum maintenance passes over or provides access to.

c. At least thirty days prior to the public hearing on such local law, written notice of such hearing, including a summary of the findings, shall be served by certified mail upon every owner of real property, as determined by the latest completed assessment roll, abutting such road or portion thereof.

d. The town clerk shall give notice of such hearing by the publication of a notice in at least one newspaper of general circulation in the town, and post such notice on the town website if available, specifying the time when and the place where such hearing will be held, and in general terms describing the proposed resolution. Such notice shall be published once at least five days prior to the day specified for such hearing.

2. A road or road segment located within a designated town, which has been designated minimum maintenance, shall be maintained at the same level as other roads within the town but shall not require snow and ice removal and maintenance. Such level of maintenance shall not restrict access to farmland by a farm operation eligible for agricultural assessment pursuant to article twenty-five-AA of the agriculture and markets law. Minimum maintenance roads shall continue to be part of the town highway system.

3. a. Any person or persons owning or occupying real property abutting a road or portion thereof which has been designated a minimum maintenance road may petition the town having jurisdiction over such road or portion thereof to discontinue the designation of such road as a minimum

maintenance road. Such petition shall be filed with the clerk of the town having jurisdiction over such road. Such petition shall identify the road or portion thereof to be discontinued as a minimum maintenance road and set forth the reasons for such discontinuance or modification. The town board having jurisdiction over such road shall hold a public hearing upon such petition within thirty days after its receipt. The town clerk shall give notice of such hearing by the publication of a notice in at least one newspaper of general circulation in the town, and post such notice on the town website if available, specifying the time when and the place where such hearing will be held, and in general terms describing the proposed resolution. Such notice shall be published once at least five days prior to the day specified for such hearing.

b. In the event the town board, after such public hearing, determines that such designation shall continue unchanged, no additional petition may be submitted by a person or persons pursuant to this section until the lapse of at least twenty-four months from the date of the filing of the previous petition filed by such person or persons.

c. The town board having jurisdiction over a minimum maintenance road may adopt a local law discontinuing such minimum maintenance road designation in the event it determines such discontinuance to be in the public interest.

4. When used in this section, unless otherwise expressly stated, or unless the context or subject matter otherwise requires, the following terms shall have the following meanings:

a. "Low-volume road" shall mean a town highway or portion thereof located in a designated town, when such highway has an average daily traffic count of less than four hundred motor vehicles per day. Such term shall not apply to any highway or road or portion thereof which has previously been abandoned pursuant to subdivision one of section two hundred five of this article because it shall not have been used or traveled as a highway for six years.

b. "Agricultural land access road" shall mean a low-volume road that provides access to farm land. Traffic volumes are low and vary seasonally.

c. "Farm access road" shall mean a low-volume road that provides principal motor vehicle access for the transport of goods and services necessary for effective support of a farm's daily operations to and from the primary location or center of such operations. Traffic volume is generally low, significantly less than four hundred motor vehicles per day, and may include occasional heavy vehicles and farm equipment as well as other motor vehicles.

d. "Recreation land access road" shall mean a low-volume road that provides access to recreational land including seasonal dwellings, parks and recreational lands. Volumes can vary with the type of recreation facility, activity and season of the year.

e. "Minimum maintenance road" shall mean a low-volume agricultural or recreational access road or portion thereof with an average daily traffic count of less than fifty motor vehicles per day designated by the designated town as minimum maintenance pursuant to this section, except for a farm access road or a road which provides access to an individual year-round residence at the time it is proposed to be designated minimum maintenance.

f. "Motor vehicle" shall mean a motor vehicle as defined by section one hundred twenty-five of the vehicle and traffic law.

g. "Designated town" shall mean the town of Lorraine, Jefferson county.

§ 2. The vehicle and traffic law is amended by adding a new section 124 to read as follows:

§ 124. Minimum maintenance road. A low-volume road or portion thereof which is designated by the town having jurisdiction over such road pursuant to section two hundred five-c of the highway law.

§ 3. Subdivision (a) of section 1683 of the vehicle and traffic law is amended by adding a new paragraph 18 to read as follows:

18. Designate a road or portion thereof as a minimum maintenance road.

§ 4. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall expire and be deemed repealed 8 years after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.