

## STATE OF NEW YORK

S. 2977

A. 4578

2011-2012 Regular Sessions

## SENATE - ASSEMBLY

February 4, 2011

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

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

AN ACT to amend the vehicle and traffic law, in relation to establishing an intercity bus passenger service permit system in cities having a population of one million or more

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

- 1 Section 1. The vehicle and traffic law is amended by adding a new  
2 section 1642-a to read as follows:  
3 § 1642-a. Intercity bus passenger service permit system in cities  
4 having a population of one million or more. 1. Definitions. As used in  
5 this section, the following terms shall have the following meanings:  
6 a. "Community board" shall have the same meaning as such term is  
7 defined in section twenty-eight hundred of the New York city charter;  
8 b. "Intercity bus passenger service" shall mean transportation by bus  
9 provided to the public on a regular and continuing basis by a person,  
10 firm, or corporation authorized to transport passengers in interstate  
11 commerce by the federal motor carrier safety administration or in intra-  
12 state commerce by the state department of transportation that is prima-  
13 rily intended to satisfy longer distance travel demand between cities,  
14 and villages and unincorporated urban places; and  
15 c. "Metropolitan Transportation Authority" shall mean the corporation  
16 created by section twelve hundred sixty-three of the public authorities  
17 law.  
18 2. Exemptions. The provisions of this section shall not apply to any  
19 transportation for compensation when that transportation is performed:

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

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- 1 a. Incidental to or in furtherance of any non-transportation commercial or not-for-profit enterprise of the provider of the transportation  
2 when such transportation is not open to the general public;  
3  
4 b. To and from schools and school-related activities;  
5  
6 c. On an occasional, casual or reciprocal basis by persons not engaged  
7 in transportation as a regular occupation or business;  
8  
9 d. As a sightseeing service conducted pursuant to the jurisdiction or  
10 regulatory control of a city, village or town when such service is oper-  
11 ated wholly within a city with a population of one million or more;  
12  
13 e. In ambulances that are under the jurisdiction of the New York state  
14 department of health;  
15  
16 f. By transportation authorities when the transportation performed is  
17 wholly within the transportation district prescribed by the public  
18 authorities law for such transportation authority;  
19  
20 g. By transportation systems that are wholly owned by a municipality  
21 when the transportation performed is wholly within such municipality's  
22 boundaries;  
23  
24 h. By buses operating wholly within any city;  
25  
26 i. By carriers operating under a contract with an employer to provide  
27 transportation for the exclusive use of employees; and  
28  
29 j. As a taxi or livery service conducted in vehicles having a seating  
30 capacity of twenty passengers or less pursuant to the jurisdiction or  
31 regulatory control of a city with a population over one million, when  
32 such service is conducted wholly within such a city.  
33  
34 3. Notwithstanding any other provision of law, each city with a popu-  
35 lation of one million or more may, by adoption of a local law or ordi-  
36 nance:  
37  
38 a. establish a permit system for the loading and unloading of passen-  
39 gers on streets within such city by buses operating in intercity bus  
40 passenger service; and  
41  
42 b. prohibit buses operating in intercity bus passenger service from  
43 loading or unloading passengers on streets within such city without a  
44 permit issued pursuant to any such local law or ordinance or in  
45 violation of any permit requirements or restrictions. Provided, however,  
46 prior to establishing a permit system the city agency designated pursu-  
47 ant to paragraph a of subdivision four of this section shall, in consul-  
48 tation with the Metropolitan Transportation Authority and community  
49 boards, identify a sufficient number of locations for the loading and  
50 unloading of passengers by such buses.  
51  
52 4. The local law or ordinance providing for such permit system:  
53  
54 a. shall designate a city agency which shall assume the regulatory  
55 responsibility for such permit system including the issuance of permits,  
56 the designation of locations for the loading and unloading of passen-  
gers, and the designation of streets or areas where the loading or  
unloading of passengers may be prohibited;  
b. shall establish criteria for the issuance of permits which shall  
include, but not be limited to, requiring the owner or operator of an  
intercity bus passenger service to submit a permit application for each  
proposed location for loading or unloading passengers which application  
shall include the name, address, telephone number, e-mail address and  
motor carrier number of the owner or operator of such intercity bus  
passenger service, the following identifying information for each bus to  
be used in such intercity bus passenger service: United States depart-  
ment of transportation number and/or New York state department of trans-  
portation number; a proposed location, and two or more alternative  
proposed locations, for the loading or unloading of passengers; the

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1 number of buses that would use the designated location for the loading  
2 or unloading of passengers; the number of passengers anticipated for  
3 each bus; the number of buses that would use the designated location for  
4 each bus; the proposed bus schedule; the proposed garage or parking  
5 location of the buses during periods when the buses are not being used  
6 for intercity bus passenger service; and any other information deemed  
7 necessary by the commissioner of the city agency designated pursuant to  
8 paragraph a of this subdivision;

9 c. shall authorize the city agency designated pursuant to paragraph a  
10 of this subdivision to promulgate rules and regulations for the imple-  
11 mentation of such local law which shall include, but not be limited to:

12 (i) providing for the issuance of permits in accordance with criteria  
13 established by such local law or ordinance;

14 (ii) establishing criteria to approve or disapprove permit applica-  
15 tions, which must include at minimum a thirty day notice and comment  
16 period for the Metropolitan Transportation Authority and the relevant  
17 community board and a process for applicants to appeal a disapproval of  
18 a permit application;

19 (iii) establishing criteria for assigning locations to permit appli-  
20 cants for the loading or unloading of passengers which shall include,  
21 but not be limited to, the applicant's preferences, traffic and safety  
22 considerations, consideration of comments from the Metropolitan Trans-  
23 portation Authority and the relevant community board, and any other  
24 criteria deemed appropriate by the commissioner of such agency;

25 (iv) establishing a process to review and render a final administra-  
26 tive determination on any application for the issuance of a permit with-  
27 in ninety days after a completed application is filed;

28 (v) establishing criteria for granting a waiver of any or all require-  
29 ments for an owner or operator of intercity bus passenger service that  
30 infrequently loads or unloads passengers in such city, or based on oper-  
31 ational considerations, and a process for applying for such a waiver;  
32 and

33 (vi) providing that permits may be issued for up to three years,  
34 provided, however, that the city agency designated pursuant to paragraph  
35 a of this subdivision may relocate a designated location, upon thirty  
36 days' notice to the holder of the permit, the Metropolitan Transporta-  
37 tion Authority and the relevant community board based on city needs as  
38 determined by the commissioner of such agency;

39 d. shall require the owner or operator of an intercity bus passenger  
40 service to prominently display a copy of such permit in each bus that  
41 uses a designated location for the loading or unloading of passengers;

42 e. shall provide for public notice of permit applications within five  
43 business days of submission thereof;

44 f. shall provide that, as a condition to obtaining a permit pursuant  
45 to a local law or ordinance adopted pursuant to this section, every  
46 permit applicant shall obtain and continue in effect a surety bond in  
47 the amount of five thousand dollars executed by a surety company author-  
48 ized to transact business in the state by the insurance department of  
49 the state. The bonds shall be approved as to form by the commissioner of  
50 the city agency designated pursuant to paragraph a of this subdivision  
51 and shall be conditioned on the permit applicant's or holder's payment  
52 of all civil penalties imposed upon the permit applicant or holder for  
53 operating an intercity bus passenger service that loads or unloads  
54 passengers on streets within such city in violation of any permit  
55 requirements or restrictions. Recovery against a bond may be made by  
56 such city which obtains a judgment against the permit applicant or hold-

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1 er for an act or omission on which the bond is conditioned if the act or  
2 omission occurred during the term of the bond. The total liability  
3 imposed on the surety under this section for all breaches of the bond  
4 condition is limited to the face amount of the bond. Such liability may  
5 include, but is not limited to, the amount of the fines imposed and  
6 unpaid. In no event shall the surety on a bond be liable for total  
7 claims in excess of the bond amount, regardless of the number or nature  
8 of claims made against the bond or the number of years the bond remained  
9 in force. Any surety issuing a bond pursuant to this subdivision shall  
10 be required to provide sixty days' notice to the commissioner of the  
11 city agency designated pursuant to paragraph a of this subdivision prior  
12 to the effective date of cancellation of the bond;

13 g. shall contain adequate regulatory and enforcement criteria;

14 h. may provide for the imposition of an annual fee for such permit not  
15 to exceed two hundred seventy-five dollars per vehicle;

16 i. shall provide that such fees shall be credited to the general fund  
17 of the city; and

18 j. may provide for:

19 (A) a civil penalty for loading or unloading passengers on a city  
20 street without a permit or for failure to comply with any permit  
21 requirements or restriction provided that such civil penalties shall not  
22 be more than one thousand dollars, and for a second or subsequent  
23 violation within two years of the first violation shall not be more than  
24 twenty-five hundred dollars; and

25 (B) suspension or revocation of a permit for failure to comply with  
26 any permit requirements or restrictions.

27 5. No ordinance shall be adopted pursuant to this section until a  
28 public hearing thereon has been had in the same manner as required for  
29 public hearings on a local law pursuant to the municipal home rule law.

30 § 2. This act shall take effect immediately.

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S2977

SPONSOR: SQUADRON

TITLE OF BILL:

An act to amend the vehicle and traffic law, in relation to establishing an intercity bus passenger service permit system in cities having a population of one million or more

PURPOSE OR GENERAL IDEA OF BILL:

To authorize a permit system for the loading and unloading of passengers by buses engaged in intercity bus passenger service in cities of one million or more, to provide guidance to bus companies and improve the health, safety and welfare of the public.

SUMMARY OF SPECIFIC PROVISIONS:

The bill would authorize cities having a population of one million or more to adopt a local law or ordinance establishing a permit system for the loading and unloading of passengers on streets within the city by buses operating in intercity bus passenger service (as defined), and to prohibit buses operating in intercity bus passenger service from loading or unloading passengers either without a permit or in violation of any permit requirement or restriction. The provisions of this section would also require the local law or ordinance to:

- \* designate an agency to assume regulatory responsibility for the permit system, including permit issuance, the designation of passenger loading and unloading locations, and the designation of streets where passenger loading and unloading may be prohibited, in consultation with the Metropolitan Transportation Authority (MTA) and community boards;
- \* establish criteria for permit issuance;
- \* require the display of permits in buses;
- \* provide public notice of permit applications within five days of submission;
- \* require applicants to obtain five thousand dollar surety bonds and continue them in effect, to be conditioned upon the payment of all civil penalties for operating in violation of permit requirements or restrictions; and
- \* contain adequate regulatory and enforcement criteria.

The bill would authorize the local law or ordinance to impose a maximum two hundred seventy-five dollar per vehicle annual fee to be credited to the city's general fund, as well as civil penalties for violations (maximum one thousand dollars for a first violation, maximum twenty-five hundred dollars for a second or subsequent violation within two years)

and permit suspension or revocation for failure to comply with permit requirements or restrictions.

Additionally, the bill would require the designated city agency to:

\* identify a sufficient number of intercity bus passenger service loading and unloading locations prior to the establishment of a permit system, in consultation with the MTA and community boards; and

\* promulgate rules and regulations to implement the local law including: permit issuance and period of validity; permit application approval and disapproval, including at minimum a thirty day notice and comment period to the MTA and relevant community board; a process to review and render a final administrative determination within ninety days of filing; an appeals process for disapprovals; a process for assigning locations; criteria for granting waivers; and relocation of designated locations upon thirty days' notice to permit holders, the MTA and the relevant community board.

The bill would exempt a number of vehicles including school buses, sight-seeing buses, transportation authority buses, municipal buses and others. Finally, the bill would prohibit the adoption of any ordinance until a public hearing has been had in the same manner as required for public hearings on local laws pursuant to the Municipal Home Rule Law.

#### JUSTIFICATION:

Portions of the private interstate bus industry offer point to point passenger service between the City of New York and other cities at prices less than that available through other commercial bus companies and other forms of transportation such as air and rail. These private interstate bus services have grown exponentially in recent years and now travel to many states along the eastern seaboard, with some traveling further west. This expansion and competition have given rise to reports of many problems including significant strains being placed on surrounding communities from increased congestion, noise, pollution, Jitter, and decreased safety and security for pedestrians, passengers and residents of the neighborhoods.

This bill seeks to address these concerns by authorizing the establishment and implementation of a permit system for the loading and unloading of passengers by buses engaged in intercity bus passenger service. The bill is intended to impose order on the use of curb space by buses engaged in intercity bus passenger service, thereby bolstering the City's parking, stopping and standing restrictions. This, in turn, should help to improve the health, safety and welfare of the public and neighborhood residents.

#### PRIOR LEGISLATIVE HISTORY:

New legislation.

#### FISCAL IMPLICATIONS:

None to the State.

EFFECTIVE DATE:

This act shall take effect immediately.

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**NEW YORK STATE ASSEMBLY**  
**MEMORANDUM IN SUPPORT OF LEGISLATION**  
**submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A4578

SPONSOR: Silver

TITLE OF BILL: An act to amend the vehicle and traffic law, in relation to establishing an intercity bus passenger service permit system in cities having a population of one million or more

PURPOSE OR GENERAL IDEA OF BILL:

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**PRIOR LEGISLATIVE HISTORY:**

New legislation.

**FISCAL IMPLICATIONS:**

None to the State.

EFFECTIVE DATE:

This act shall take effect immediately.

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