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Proposed Int. No. 658-A

By Council Members Avella, Mark-Viverito, Palma, Arroyo, Mendez, Yassky, Brewer, Gerson and Ferreras

A Local Law to amend the administrative code of the city of New York, in relation to repealing all provisions allowing for the operation of horse drawn cabs.

Be it enacted by the Council as follows:

Section 1. Title seventeen, subchapter three of the administrative code of the city of New York is amended to read as follows:

§17-326. Definitions. Whenever used in this subchapter the following terms shall have the following meanings: (a)

"Person" means an individual, partnership, corporation, association or other legal entity.

(b) "Veterinarian" means a person licensed to practice veterinary medicine in the state of New York.

(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].

(d) "Owner" means the owner of a horse which is required to be licensed pursuant to this subchapter and the owner of a

rental horse business in which such horse is used.

(e) "Riding horse" means a horse which is available to the public for a fee for the purpose of riding.

(f) "Carriage horse" means any horse which is used by its owner or any other person to pull any vehicle, carriage, sled, sleigh or other device in exchange for a fee. A horse rented or leased by its owner to another for any of the foregoing purposes shall be deemed to be a carriage horse for the purposes of this subchapter.

(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].

(h) "Rental horse" means a horse which is used in a rental horse business.

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

(j) "ASPCA" means the American Society for the Prevention of Cruelty to Animals.

(k) "Stable" means any place, establishment or facility where one or more rental horses are housed or maintained.

§ 17-327 Carriage rides prohibited. It shall be unlawful to offer rides to the public on a vehicle drawn or pulled by a carriage horse.

§ 17-32[7]8 License required. 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].

b. A license shall be issued for a term of one year from the date of issuance thereof and shall be renewed prior to the expiration of such term.

c. The annual fee for a license or the renewal of a license shall be twenty-five dollars.

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.

e. No license shall be transferable. Upon the transfer of ownership of any horse to a new owner, the new owner shall obtain a license for such horse within fifteen days after the date of the transfer of ownership.

§ 17-32[8]9 Identification tag and certificate of license. a. Each horse licensed pursuant to the provisions of this subchapter shall be assigned an official identification number by the department. Such identification number shall be branded on the hoof of the horse in a manner to be prescribed by the commissioner and shall also be inscribed on a metal tag which shall be attached to the bridle of the horse in a conspicuous place to be specified by the commissioner at all times when the horse is at work. Such tag shall be issued to the owner with the certificate of license. The tag and certificate of license shall be of such form and design and shall contain such information as the commissioner shall prescribe. Duplicate tags and certificates of license shall be issued only upon proof of loss of the original and the payment of a fee of two dollars.

b. The certificate of license shall at all times remain at the stable where the horse is kept and shall be available for inspection by any police officer, agent of the department and the ASPCA, or to veterinarians employed or retained by the department or the ASPCA or employees of the department of consumer affairs or any persons designated by the commissioner to enforce this subchapter.

§ 17-3[29]30 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 and will be cared for humanely for the remainder of the horse's natural life.

c. 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.

§ 17-33[0]31 Regulations. a. The commissioner, with the advice of the advisory board as hereinafter established, shall promulgate such regulations as are necessary to carry out the provisions of this subchapter and to promote the health, safety and well being of the horses which are required to be licensed hereunder and of members of the public who hire such horses.

b. Horses shall not be left untethered or unattended except when confined in a stable or other enclosure.

c. Standing stalls in stall shall be of a size specified by regulation of the commissioner.

d. Horses shall be adequately quartered. Stables and stalls shall be clean and dry and sufficient bedding of straw, shavings or other suitable materials shall be furnished and changed as often as necessary to maintain them in a clean and dry condition. Adequate heating and ventilation shall be maintained in stables as prescribed by the commissioner.

e. Owners shall insure that appropriate and sufficient food and drinking water are available for each horse and that while working each horse is permitted to eat and drink at reasonable intervals.

f. Owners shall not allow a horse to be worked on a public highway, path or street during adverse weather or other dangerous conditions which are a threat to the health or safety of the horse. A horse being worked when such conditions develop shall be immediately returned to the stable by the most direct route.

g. [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].

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.

i. Horses shall be suitably trimmed or shod, and saddles, bridles, bits, road harnesses and any other equipment used on or with a horse at work shall be maintained and properly fitted as prescribed by regulation of the commissioner.

j. Stables in which horses used in a rental horse business are kept shall be open for inspection by authorized officers, veterinarians and employees of the department, and any persons designated by the commissioner to enforce the provisions of this subchapter, agents of the ASPCA, police officers, and employees of the department of consumer affairs.

k. An owner shall be jointly liable with the person to whom a horse is rented for any violation of this subchapter or of any regulations promulgated hereunder committed by such person if the owner had knowledge or notice of the act which gave rise to

the violation at the time of or prior to its occurrence or under the circumstances should have had knowledge or notice of such act and did not attempt to prevent it from occurring.

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. 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.

m. A horse required to be licensed pursuant to this subchapter which is lame or suffers from a physical condition or illness making it unsuitable for work may be ordered to be removed from work by the commissioner or his or her designee or by an agent of the ASPCA or a veterinarian employed or retained by such commissioner or ASPCA to inspect licensed horses. A horse for which such an order has been issued shall not be returned to work until it has recovered from the condition which caused the issuance of the order or until such condition has improved sufficiently that its return to work will not aggravate the condition or otherwise endanger the health of the horse. In any proceeding, under this section it shall be presumed that a horse which is found at work within forty-eight hours after the issuance of an order of removal and which is disabled by the same condition which caused such order to be issued has been returned to work in violation of this section. Such presumption may be rebutted by offering a certificate of a veterinarian indicating suitability to return to work prior to the expiration of the forty-eight hour period.

n. Every horse required to be licensed hereunder shall be examined by a veterinarian prior to its use in a rental horse business and thereafter at intervals of not more than one year. The examination shall include the general physical condition of the horse, its teeth, hoofs and shoes, and its stamina and physical ability to perform the work or duties required of it. The examination shall also include a record of any injury, disease, or deficiency observed by the veterinarian at the time, together with any prescription or humane correction or disposition of the same. A signed health certificate by the examining veterinarian shall be maintained at the stable premises at which such horse is located. A copy of said certificate shall be mailed by the examining veterinarian to the department of health and mental hygiene.

§2. Subdivisions o and p of section 17-330 of subchapter three of title seventeen of the administrative code of the city of New York are REPEALED.

§3. Section 17-331, as added by local law 4 of 1982 is renumbered as section 17-332 of subchapter three of title seventeen of the administrative code of the city of New York and is amended to read as follows:

§ 17-33[1]2 Advisory board. a. The commissioner shall appoint an advisory board consisting of five members 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].

2. Two members shall be appointed from the public at large. However, in no event shall more than one person so appointed to the board be a member of the board of directors or an employee of any animal humane society or association.

3. One member shall be a veterinarian.

b. The terms of office of the members of the board shall be three years except that the terms of office of the members first appointed shall be as follows:

1. Two of such members first appointed shall serve for a term ending on the thirty-first day of December, nineteen hundred eighty-two.

2. Two of such members first appointed shall serve for a term ending on the thirty-first day of December, nineteen hundred eighty-three.

3. One of such members first appointed shall serve for a term ending on the thirty-first day of December, nineteen hundred eighty-four.

c. The members of the board shall serve without compensation.

d. The board shall make recommendations to the commissioner on regulations necessary to carry out the provisions of this subchapter and to promote the health, safety and well-being of horses which are required to be licensed hereunder and of members of the public who hire such horses.

§4. Section 17-332 as added by local law 2 of 1994, is renumbered as section 17-333 and section 17-333 as amended by Local Law 2 of 1994 and subdivision a of section 17-334 of subchapter three of title seventeen of the administrative code of the city of New York are REPEALED.

§5. Section 17-344.1 of subchapter three of title seventeen of the administrative code of the city of New York is REPEALED.

§6. Sections 19-174 and 19-175 of subchapter two of title nineteen of the administrative code of the city of New York are REPEALED.

§7. Title twenty, subchapter twenty-one of the administrative code of the city of New York is amended to read as follows:

§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.]

§ 20-372 Definitions. Whenever used in this subchapter, the following terms shall mean:

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.
2. "Sight-seeing bus license" shall designate the license issued by the commissioner for each sight-seeing bus.
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.
4. "Sight-seeing bus" shall mean a motor vehicle designed to comfortably seat and carry eight or more passengers operating for hire from a fixed point in the city of New York to a place or places of interest or amusements, and shall also include a vehicle, designed as aforesaid which by oral or written contract is let and hired or otherwise engaged for its exclusive use for a specific or special trip or excursion from a starting point within the city of New York.

§8. Subdivisions 5 as amended by Local Law 2 of 1994, 6 as amended by Local Law 31 of 1995, 7 and 8 of section 20-372 of subchapter twenty-one of title twenty of the administrative code of the city of New York are REPEALED and subdivision 9 is renumbered as subdivision 5 and subdivision 10 is renumbered as subdivision 6.

§9. Subdivisions c and d of section 20-373 of subchapter twenty-one of title twenty of the administrative code of the city of New York are REPEALED and section 20-373, is amended to read as follows:

§20-373 License required; fee; term. 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].

§10. Subdivision c of section 20-374, of subchapter twenty one of title twenty of the administrative code of the city of New York is REPEALED and section 20-374 is amended to read as follows:

§20-374 Granting and transferring of licenses. 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].

§11. Section 20-375, of subchapter twenty one of title twenty of the administrative code of the city of New York is amended to read as follows:

§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.

§12. Sections 20-377 and 20.377.1 of subchapter twenty-one of title twenty of the administrative code of the city of New York are REPEALED.

§13. Section 20-378 of subchapter twenty-one of title twenty of the administrative code of the city of New York is renumbered section 20-377 and amended to read as follows:

§20-37[8]7 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.

§14. Section 20-379 of subchapter twenty-one of title twenty of the administrative code of the city of New York is renumbered section 20-378 and amended to read as follows:

§ 20-37[9]8 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.

§15. Sections 20-380 as enacted by local law 2 of 1994, 20-381, 20-381.1 and 20-382 of subchapter twenty-one of title twenty of the administrative code of the city of New York are REPEALED.

§16. Subdivisions b, c and d of section 20-383 of subchapter twenty-one of title twenty of the administrative code of the city of New York are REPEALED and section 20-383 is renumbered as section 20-379 and amended to read as follows.

§ 20-3[83]79 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.

§17. Section 20-384 of subchapter twenty-one of title twenty of the administrative code of the city of New York is renumbered as section 20-380.

§18. This local law shall take effect in six months.

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11/21/07