



Legislation Text

File #: Int 1303-2016, **Version:** *

Int. No. 1303

By The Speaker (Council Member Mark-Viverito) and Council Members Chin, Ulrich, Miller, Ferreras-Copeland, Menchaca, Levine, Rose, Levin, Barron, Richards, Rodriguez, Eugene, Dromm, Perkins, Espinal, King and the Public Advocate (Ms. James) (by request of the Manhattan Borough President)

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board

Be it enacted by the Council as follows:

Section 1. Chapter 1 of the New York city charter is amended by adding a new 13-C to read as follows:

§ 13-C Office of Street Vendor Enforcement. There shall be an office of street vendor enforcement, which shall include enforcement agents who are specially trained in state and local laws and rules related to vending on the streets and sidewalks of the city of New York. The mayor may establish such office in the executive office of the mayor, within any other office in the executive office of the mayor, or within any department, the head of which is appointed by the mayor. Such office shall have the power and duty to:

a. enforce all state and local laws and rules related to vending on the streets and sidewalks of the city of New York, including, but not limited to, relevant provisions of the general business law of the state of New York; subchapter 2 of chapter 3 of title 17 and subchapter 27 of chapter 2 of title 20 of this code; the New York city air pollution control code; and subchapter AA of chapter 2 of title 6, chapter 6 of title 24 and chapter 1 of title 56 of the rules of the city of New York;

b. focus its enforcement efforts on areas included in the designated vending locations pilot program created by this local law, areas adjacent to retailers that dedicate substantial floor area to the sale of fresh fruits and vegetables, and any other areas identified by the department of transportation as excessively congested and

featuring a high level of vendor activity, if any;

c. collaborate with the department of small business services to provide training and education to all street vendors on all applicable state and local laws and regulations, with a focus on areas included in the designated vending locations pilot program created by this local law, as well as other areas identified by the department of transportation as excessively congested and featuring a high level of vendor activity, if any; and

d. engage in such other activities related to enforcement of laws related to vending on the streets and sidewalks of the city of New York, or related to improving compliance with such laws, as may be designated by the mayor.

§ 2. Subparagraph (a) of paragraph 2 of subdivision b of section 17-307 of the administrative code of the city of New York is amended to read as follows:

(a) [On] (i) Except for permits issued pursuant to subparagraph (b) of this paragraph, on and after July thirtieth, nineteen hundred eighty-three, no new full-term permits shall be issued until the number of such permits which are in effect is less than three thousand. Thereafter, the maximum number of such permits which may be in effect shall be three thousand and no new permits shall be issued in excess of such maximum number. Notwithstanding the limitations on the issuance of new full-term permits, a permit issued prior to July thirtieth, nineteen hundred eighty-three which is in effect shall be renewable by the licensee to whom the permit was issued subject to the provisions of subparagraph (f) of this paragraph and provided that all other requirements for renewal under the provisions of this subchapter and any rules promulgated pursuant thereto are complied with, the license of the person to whom the permit was issued or the permit has not been revoked or suspended and the licensee has not committed a violation or violations which could be a basis for permit or license revocation or suspension.

(ii) On and after March fifteenth, nineteen hundred ninety-five, without increasing the number of full-term permits which may be in effect in accordance with clause (i) of this subparagraph, two hundred full-term permits shall be designated for use exclusively in specified boroughs as follows:

(A) fifty of such full-term permits shall authorize the holders thereof to vend food from any vehicle or pushcart in any public place in the borough of the Bronx where food vendors are not prohibited from vending;

(B) fifty of such full-term permits shall authorize the holders thereof to vend food from any vehicle or pushcart in any public place in the borough of Brooklyn where food vendors are not prohibited from vending;

(C) fifty of such full-term permits shall authorize the holders thereof to vend food from any vehicle or pushcart in any public place in the borough of Queens where food vendors are not prohibited from vending; and

(D) fifty of such full-term permits shall authorize the holders thereof to vend food from any vehicle or pushcart in any public place in the borough of Staten Island where food vendors are not prohibited from vending.

(iii) After the initial issuance of such permits, the commissioner shall establish a separate waiting list for each of the relevant boroughs to be administered in accordance with procedures to be established by rules of the commissioner. The commissioner may by rule limit the number of places on each such waiting list.

§ 3. Subparagraph (b) of paragraph 2 of subdivision b of section 17-307 of the administrative code of the city of New York is REPEALED, and a new subparagraph (b) of paragraph 2 of subdivision b is added to such section 17-307 to read as follows:

(b) (i) Beginning March 1, 2018, the commissioner shall issue a full-term permit to any applicant who was placed on a waiting list for a full-term or temporary permit in accordance with the provisions of this subchapter prior to October of 2011, who remains on such waiting list as of the date of issuance, and who was licensed as a food vendor in accordance with the provisions of this subchapter continuously since at least March 1, 2014.

(ii) Beginning March 1, 2018, the commissioner shall issue a full-term permit to any applicant licensed as a food vendor in accordance with this subchapter who has been licensed as a food vendor in accordance with the provisions of this subchapter continuously since at least March 1, 2014.

(iii) Beginning March 1, 2018, the commissioner shall issue a full-term permit to any applicant who was

placed on a waiting list for a full-term or temporary permit in accordance with the provisions of this subchapter prior to October of 2011, and who remains on such waiting list as of the date of issuance.

(iv) The number of new permits issued pursuant to clauses (i), (ii) and (iii) of this subparagraph shall not exceed six hundred in any year. If more than six hundred eligible applicants apply prior to March 1, 2018, such permits shall be distributed with priority to those eligible pursuant to clause (i), followed by those eligible pursuant to clause (ii), followed by those eligible pursuant to clause (iii), with further priority determinations made in a manner determined by the department by rule. If more than six hundred applicants eligible for a permit under this subparagraph apply prior to March 1, 2018, six hundred applicants or the number of eligible applicants, whichever is less, shall receive a full-term permit issued by the commissioner each year on March 1 through 2024, or until no such eligible applicants remain, whichever comes first.

(v) In order to be eligible for a permit pursuant to clause (i), (ii) or (iii) of this subparagraph, an individual must meet all requirements for issuance of a permit contained in this subchapter and any rules promulgated pursuant thereto and the standards established by the commissioner.

(vi) This section does not limit the authority of the commissioner to issue additional full-term permits pursuant to section 17-325.3.

§ 4. Subparagrah (a) of paragraph 3 of subdivision b of section 17-307 of the administrative code of the city of New York is amended to read as follows:

(a) Notwithstanding the provisions of paragraph two of this subdivision limiting the number of full-term permits that are authorized to be issued, the commissioner may issue up to a maximum of one hundred additional full-term permits authorizing the holders thereof to vend food from any vehicle or pushcart in any public place in the city of New York where food vendors are not prohibited from vending. On March 1, 2018, an additional thirty five such permits are authorized to be issued, with an additional thirty five such permits authorized each year on March 1 through 2024, at which point the total number of permits authorized to be issued under this subparagraph shall be three hundred forty five. Such permits shall be issued only to natural

persons who at the time of application for a permit hereunder are not holders of a full-term permit issued pursuant to paragraph two of this subdivision and who have not had a full-term permit revoked or suspended. No person shall be issued more than one permit. Such permits shall be issued in the order in which applications for such permits are received in accordance with the preferences specified in subparagraph (b) of this paragraph and the procedures established by the commissioner. The issuance or renewal of a full-term permit pursuant to this paragraph shall be subject to the permittee within three months after the certification of a complete application therefor presenting a pushcart or vehicle for inspection by the department and, within six months after such certification, passing such inspection. After the initial issuance of such permits, the commissioner shall establish a waiting list, not to exceed four hundred in number, to be administered in accordance with procedures to be established by rules of the commissioner.

§ 5. Section 17-307 of the administrative code of the city of New York is amended by adding a new subdivision h to read as follows:

h. Nothing in this subdivision shall prohibit the department from issuing any license or permit to a veteran or disabled veteran as such terms are defined in section 17-306 of this subchapter, in a form and manner to be determined by the commissioner and in accordance with the provisions of the New York state general business law.

§ 6. Subdivision e of section 17-321 of the administrative code of the city of New York is amended to read as follows:

e. Any notice of violation issued to a food vendor by an officer or employee described in subdivision a of this section that is returnable to [the environmental control board] a tribunal established within the office of administrative trials and hearings or within any agency of the city of New York designated to conduct such proceedings shall state the permit number of the vehicle or pushcart associated with such notice of violation. Any fine, penalty or judgment duly imposed by such tribunal shall be considered to have been issued against the permittee associated with such permit number for the purposes of the non-issuance or renewal of a food

vendor permit pursuant to subdivision b of section 17-317.

§ 7. Paragraph 2 of subdivision c of section 17-308 of the administrative code of the city of New York is amended to read as follows:

2. For a vehicle selling foods prepared or processed therein: one [hundred] thousand dollars.

§ 8. Section 17-315 of the administrative code of the city of New York is amended by adding new subdivisions m and n to read as follows:

m. No license shall be issued to a person required to have a license pursuant to this subchapter, and no license shall be renewed for such a person, unless they obtain a certificate issued by the department subsequent to successful completion of a training developed by the department on the vending restrictions contained in this section, and passage of an examination administered by the department. Any lectures or educational materials designed for such training program shall be made available in English and in the six most common languages spoken by limited English proficient individuals in the city according to the department of city planning. Such educational materials shall be available on the department's website.

n. The department, or such other agency designated by the mayor, shall provide a website and mobile application that allows the user to view a map of areas of the sidewalk, to the extent practicable, on which food vending is not permissible pursuant to this section or any other law or rule, based on the day and hour entered.

§ 9. Subchapter 2 of chapter 3 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-325.3 to read as follows:

§ 17-325.3 Study of vending and authorization to issue additional vending permits. The department, in conjunction with the department of transportation and the department of consumer affairs, shall conduct a study that shall commence on or before August 1, 2024 and shall conclude on or before March 1, 2025. On or before May 1, 2025, the department shall submit a report to the council that details the results of such study. The study required by this section may be redone or updated at the discretion of the department or department of consumer affairs after such due date. The study required by this section shall include, but need not be limited

to, the following:

a. An analysis of the results of the increased number of mobile food vendor permits issued pursuant to the local law that created this section, including its impact on job opportunities for vendors, the diversity of food options available, sidewalk congestion, the health of the restaurant industry, and the health of the food retail industry.

b. An analysis of the efficacy of the office of street vendor enforcement in reducing the incidence of violations of the laws and rules of the city of New York by vendors.

c. The department may, based on its analysis in a study performed pursuant to the requirements of this section and in consultation with the street vendor advisory board, issue full-term mobile food vendor permits and temporary food vendor permits, notwithstanding the limits on the number of such permits that may be issued contained in section 17-307.

§ 10. Subchapter 2 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-175.5 to read as follows:

§ 19-175.5 Vending signs on parking sign poles. The department shall mount a metal sign indicating that vending it not allowed at any time on at least one pole used for mounting parking regulations that is maintained by the department on every block face on which vending pursuant to a general vendor license or food vendor permit issued pursuant to subparagraph (b) of paragraph two of subdivision b of section 17-307, or subdivision a of section 20-459, is disallowed at all times. This section shall not apply to block faces without any pole used for mounting parking regulations that is maintained by the department. For the purposes of this section, the term “block face” means the area of sidewalk spanning from one intersection to the next, and the term “intersection” means intersection as such term is defined in the rules of the department.

§ 11. Subdivision a of section 20-454 of the administrative code of the city of New York is amended to read as follows:

a. All licenses issued pursuant to this subchapter shall be valid for [one year] two years unless sooner

suspended or revoked. The commissioner shall establish by regulation the expiration date of such licenses.

§ 12. Subdivision b of section 20-456 of the administrative code of the city of New York is amended, and a new subdivision c is added to such section, to read as follows:

b. The commissioner may refuse to issue or renew a license if the applicant has been found to have violated chapter one or subchapter one of chapter five of this title or the rules or regulations thereto, provided, however, that in the event of a conflict between the provisions of such chapter and subchapter and the provisions of this subchapter, the provisions of this subchapter shall prevail; [has pending any unanswered summonses or unsatisfied fines or penalties for violation of this subchapter or the regulations promulgated thereto;] or for any cause set forth in any other section of this chapter as a ground for suspension or revocation.

c. The commissioner shall not issue or renew any license if the applicant has failed to pay any fine or penalty imposed pursuant to the provisions of this subchapter or any rules promulgated thereto.

§ 13. Section 20-465 of the administrative code of the city of New York is amended by adding a new subdivision r to read as follows:

r. The department, or such other agency designated by the mayor, shall provide a website and mobile application that allows the user to view a map of the areas of the sidewalk, to the extent practicable, on which general vending is not permissible pursuant to this section or any other law or rule, based on the day and hour entered.

§ 14. Subchapter 27 of chapter 2 of title 20 of administrative code of the city of New York is amended by adding a new section 20-465.2 to read as follows:

§ 20.465.2 Street vendor advisory board. a. There is hereby established a street vendor advisory board consisting of the commissioners of the department of consumer affairs, the department of health and mental hygiene, the department of small business services, the department of transportation, and the police department, or their designees, three members appointed by the speaker, one of whom represents street vendors, one of

whom represents the small business community and one of whom who represents a community organization, and two members appointed by the mayor, one of whom represents street vendors and one of whom represents the small business community.

b. In addition to its other duties, the street vendor advisory board shall, prior to March 1 of each year from 2019 through 2024, issue to the council a recommendation on whether the department of health and mental hygiene's authority to issue any or all of the 600 permits authorized to be issued by such department by clauses (i), (ii) and (iii) of subparagraph (b) of paragraph 2 of subdivision b of section 17-307, or the 35 permits authorized to be issued by such department by subparagraph (a) of paragraph 3 of subdivision b of section 17-307, should be restricted, expanded, or otherwise altered based on an analysis of the results of the increased number of mobile food vendor permits issued pursuant to the local law that created this section.

§ 15. The street vendor advisory board shall review and evaluate all state and local laws and rules related to street vendors, including placement restrictions such as the minimum distance of 20 feet from any building entrance or exit, and the process for obtaining a street vendor license or permit pursuant to titles 17 and 20 of the administrative code. In conducting such review and evaluation the board shall consider whether such laws and rules should be clarified, are overly burdensome, or are duplicative. On or before January 1, 2018, the board shall submit to the speaker of the council and the mayor a report containing the board's recommendations in relation to amendments to local laws and/or rules based on such review and evaluation and the basis for each recommendation. Such report shall also include recommendations for the creation of designated community spaces where street vendors can congregate to vend, including specific recommendations concerning appropriate locations for food trucks.

§ 16. The street vendor advisory board shall review the requirements for food vendor cart storage and food preparation spaces contained in the administrative code and agency rules, and shall analyze the availability and cost of such storage and spaces. On or before January 1, 2018, the board shall submit to the speaker of the council and the mayor a report containing the board's recommendations for increasing the availability, and

reducing the cost to vendors, of food vendor cart storage and food preparation spaces. Such report may be included as part of the report prepared pursuant to section fifteen of this local law.

§ 17. The department of transportation shall operate a designated vending locations pilot program. Such pilot program shall, no later than March 1, 2017, identify at least four areas in the city, no more than one of which may be in a single borough, which contain a high level of vendor activity and excessively congested sidewalks. The boundaries of such areas shall be posted on such department's website and may be modified at any time.

Until March 1, 2019, the department of transportation may, after consultation with affected community boards and business improvement districts, waive or modify restrictions on the placement of food and general vendors contained in sections 17-315 and 20-465 in such areas. Modifications to restrictions made pursuant to this section shall not result in a net decrease in permissible vending areas in any area in the designated vending locations pilot program. The department of transportation shall issue a report to the mayor and council on or before September 1, 2019 on the results of any such waivers or modifications.

§ 18. The department of consumer affairs shall work with the department of education and the economic development corporation to enter into agreements to create pilot programs for the use of kitchen space at schools controlled by the department of education and commercial kitchens established through the economic development corporation, as food preparation space for mobile food vendors.

§ 19. Nothing in this local law limits the authority of any agency granted elsewhere in law to enforce any law or rule.

§ 20. The commissioners of health and mental hygiene and consumer affairs, and the board of health, may promulgate rules as may be necessary for the purposes of carrying out the provisions of this local law.

§ 21. Sections one, six, nine, twelve, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen and twenty of this local law take effect immediately. Sections fifteen and sixteen expire and shall be deemed repealed on January 1, 2019. Sections two, three, four, five, seven, eight, eleven, thirteen, of this local law take effect 180

days after they become law. Section ten of this local law takes effect one year after it becomes law.

RC/LUR/DSS

LS 1334

10/13/16