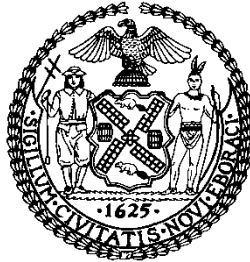


Transportation Committee Staff:
Kelly E. Taylor, Counsel
Gafar Zaaloff, Policy Analyst
Jonathan Masserano, Policy Analyst
Russell Murphy, Policy Analyst
Chima Obichere, Finance Analyst



THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION
Matthew Gewolb, Legislative Director

COMMITTEE ON TRANSPORTATION

Hon. Ydanis Rodriguez, Chair

October 22, 2015

Oversight - Next Stop: Evaluating New York City's Commuter Van Industry

INT. NO. 570:

By Council Members Williams, Kallos and Koo

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to eliminating the prearrangement and passenger manifest requirements for commuter vans, repealing the requirement that commuter vans renew their license every six years, and repealing subdivision k of section 19-504.2.

ADMINISTRATIVE CODE:

Amends subdivision q of section 19-502, paragraph 1 of subdivision e of section 19-504.2, paragraph 2 of subdivision e of section 19-504.2, paragraph 7 of subdivision a of section 19-504.3, subdivision b of section 19-516, and subdivision d of section 19-529.4; repeals subdivision k of section 19-504.2; and reletters subdivision l of section 19-504.2.

INT. NO. 860:

By Council Members Miller, Lancman, Koo and Williams

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to requiring a study of safety related issues in the commuter van industry and suspending new commuter van licenses pending the completion of such study.

ADMINISTRATIVE CODE:

Adds new section 19-544 to chapter 5 of title 19.

INT. NO. 861:

By Council Members Miller, Lancman, Koo and Williams

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to increasing certain penalties applicable to operators of commuter vans.

ADMINISTRATIVE CODE:

Amends paragraph 1 of subdivision i of section 19-506.

INTRODUCTION

On October 22, 2015, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, will hold a hearing on Int. No. 570, a Local Law eliminating the prearrangement and passenger manifest requirements for commuter vans, repealing the requirement that commuter vans renew their license every six years, and repealing language that instituted a temporary moratorium on commuter van service licenses in 1997; Int. No. 860, a Local Law requiring a study of safety related issues in the commuter van industry and suspending new commuter van licenses pending the completion of such study; Int. No. 861, a Local Law increasing certain penalties applicable to operators of commuter vans; and on the oversight topic “Next Stop: Evaluating New York City’s Commuter Van Industry.” The Committee expects to hear testimony from the New York City Taxi and Limousine Commission (“TLC”) and other interested stakeholders.

BACKGROUND

Commuter vans (also sometimes known as “dollar vans”) have existed in some form in New York City for decades, but they began to become particularly prevalent during the transit strike of 1980.¹ Without subway or bus service, vans filled the transportation void in many neighborhoods, taking advantage of the high-occupancy vehicle rules put in place on the East River crossings during the strike.² In 1993, the Council passed Local Law 115 in an effort to regulate and legalize the industry for the first time. Today, commuter vans provide “an economical means of transportation for areas of New York City that are underserved by

¹ Aaron Reiss, *New York’s Shadow Transit*, Jun. 27, 2014, NEW YORKER, available at <http://www.newyorker.com/business/currency/interactive-new-yorks-shadow-transit-system>.

² *Id.*

traditional for-hire vehicles and mass transit.”³ They are also one of the City’s most flexible transportation services, able to adapt to serve customers during emergencies such as hurricanes.⁴

The City’s Administrative Code defines a commuter van as “having a seating capacity of at least nine passengers but not more than twenty passengers” and “carrying passengers for hire in the City duly licensed as a commuter van by [TLC] and not permitted to accept hails from prospective passengers in the street.”⁵ It defines a commuter van service as an entity that “provides a transportation service through the use of one or more commuter vans on a prearranged regular daily basis, over non-specified or irregular routes, between a zone in a residential neighborhood and a location which shall be a work related central location, a mass transit or mass transportation facility, a shopping center, recreational facility or airport.”⁶

The Code requires commuter van services to gain approval from TLC in order to operate legally in the City.⁷ Before TLC can approve an application to operate a commuter van service, the Department of Transportation (“DOT”) must determine that the service proposed “will be required by the present or future public convenience and necessity” and must “specify the geographic area where service is authorized and the number of commuter vans authorized to be used in providing such service.”⁸ DOT must notify all affected Council Members and Community Boards of the application for the purposes of obtaining their comments.⁹ Although commuter vans are technically required to conduct service by prearrangement and are not

³ N.Y.C. Taxi and Limousine Commission, Commuter Van Decal Rule, Jul. 16, 2015, *available at* http://www.nyc.gov/html/tlc/downloads/pdf/newly_passed_rule_commuter_van_decal.pdf.

⁴ Carrie Melago, *With Mass Transit Missing, Dollar Vans Fill the Gap*, Oct. 29, 2012, WALL STREET JOURNAL, *available at* <http://blogs.wsj.com/metropolis/2012/10/29/with-mass-transit-missing-dollar-vans-fill-the-gap/>.

⁵ N.Y.C. Admin. Code § 19-502.

⁶ *Id.*

⁷ N.Y.C. Admin. Code § 19-504.2.

⁸ *Id.*

⁹ *Id.*

allowed to respond to street hails or to pick up passengers at bus stops, in many ways these rules do not align with the way commuter vans conduct their business in practice.¹⁰

Over the years, commuter vans have been the source of various community complaints, including passengers littering while waiting to be picked up, traffic congestion, and double parking.¹¹ Community leaders have also claimed that the City insufficiently consults with Community Boards regarding commuter van service applications.¹² Nonetheless, vans continue to be popular with riders, who largely see them as an economical, flexible, convenient, and fast alternative form of transportation.

Transit worker unions also argue that commuter vans provide service that public transit should provide, allowing the Metropolitan Transportation Authority (“MTA”) to underinvest in bus service. In September 1997, the Council imposed a moratorium on the issuance of new commuter van authorizations and directed the Department of City Planning to conduct a study on the impact of increasing numbers of commuter vans on bus service.¹³ The study found that, at the time, 17 neighborhoods could benefit from new or increased van service without “undue impact” on bus ridership and that at least 900 vans could operate without hurting bus service.¹⁴ In 2010, the TLC contracted with commuter vans to provide service along three routes where MTA bus service had been eliminated, but the program largely failed to attract riders.¹⁵

Pursuant to Local Law 136 of 2013, TLC lists on its website approved commuter van services, their authorized geographic service areas, and the number of vans authorized to be used

¹⁰ Dino Grandoni, *The high-speed, anything-goes, sort-of-legal world of dollar vans*, Apr. 3, 2014, BKLYNR, available at <http://bklynr.com/brooklyns-dollar-vans-will-not-yield/>.

¹¹ Holly Tsang, *Commuter van industry growing in Maspeth*, Apr. 22, 2010, FOREST HILLS TIMES, available at http://www.foresthillstimes.com/view/full_story/7167066/article-Commuter-van-industry-growing-in-Maspeth.

¹² *Id.*

¹³ Andy Newman, *More Vans Are No Threat To Bus Lines, A Study Finds*, Dec. 24, 1997, N.Y. TIMES, available at <http://www.nytimes.com/1997/12/24/nyregion/more-vans-are-no-threat-to-bus-lines-a-study-finds.html>.

¹⁴ *Id.*

¹⁵ Dino Grandoni, *supra* note 10.

by each service. As of October 15, 2015, there were 50 authorized commuter van service providers which together may use up to 657 vehicles.¹⁶ Their authorized geographic service areas cover neighborhoods throughout Brooklyn, Queens, and Manhattan, as well as a few areas of the Bronx and Staten Island.¹⁷ As of the end of 2014, there were 289 licensed commuter van drivers and 534 licensed commuter vans.¹⁸

In addition to licensed commuter vans, unlicensed commuter vans are also widely prevalent in many parts of the City. Unlicensed vans illegally provide similar services as licensed vans, but they operate without the safety and consumer protection safeguards that TLC-licensed vehicles are bound by, such as insurance and inspection requirements, as well as driver licensing requirements, including background checks and drug testing. According to the TLC, “illegal vans are typically operated in a reckless and dangerous manner while transporting passengers” posing a “grave” safety risk to pedestrians, motorists, and passengers.¹⁹ In September 2014, an unlicensed commuter van fleeing police struck a pedestrian in Jamaica.²⁰ This summer, another unlicensed van leaving a crash scene hit two pedestrians in Crown Heights.²¹

The TLC regularly seizes illegal vans—taking possession of over 1,000 between January 2013 and September 2014—but most return to the street after the owner pays a penalty and posts a \$2,000 bond.²² Currently, the penalty for a first offense of violating any law or rule related to commuter vans is \$1,000, rising to \$2,500 for second and subsequent offenses within two

¹⁶ N.Y.C. Taxi and Limousine Commission, Commuter Vans, <http://www.nyc.gov/html/tlc/html/industry/vans.shtml> (last accessed Oct. 18, 2015).

¹⁷ *Id.*

¹⁸ N.Y.C. Taxi and Limousine Commission, *2014 Annual Report 9* (2015), available at http://www.nyc.gov/html/tlc/downloads/pdf/annual_report_2014.pdf.

¹⁹ N.Y.C. Taxi and Limousine Commission, *supra* note 3.

²⁰ Ewa Kern-Jedrychowska, *Dollar Van Driver Who Fleed From Police Had 14 Arrests Since 2008: Police*, Sept. 15, 2014, DNAINFO, available at <http://www.dnainfo.com/new-york/20140915/jamaica/dollar-van-driver-who-fled-from-police-had-14-arrests-since-2008-police>.

²¹ Rachel Holliday Smith, *Dollar Van Driver Hit 2 People in Crown Heights and Fleed, Officials Say*, Jul. 20, 2015, DNAINFO, available at <https://www.dnainfo.com/new-york/20150720/crown-heights/dollar-van-driver-hit-2-people-crown-heights-fled-officials-say>.

²² *Id.*

years.²³ The penalty for illegally operating a commuter van is \$500 to \$1,000 for a first offense and \$1,000 to \$2,500 for second and subsequent offenses within two years.²⁴

To help riders more easily identify legal services, in July 2015 the TLC passed rules making a Commuter Van Decal (designed to evoke the “T” logo found on the side of all yellow taxis) and a TLC License Number decal required markings for all licensed commuter vans following a successful pilot program.²⁵ The markings are intended not just to improve public visibility of legal vans, but to “assist the TLC and the NYPD remove from City streets dangerous, unlicensed vans that pose a threat to the public,”²⁶

Figure 1: Sample of newly-required commuter van markings



In 2014 the TLC, in conjunction with the NYPD, conducted 67 enforcement operations against unlicensed commuter vans and seized and summonsed 520 illegal commuter vans.²⁷ Last month a federal district court judge found that the TLC’s vehicle seizure practices were unconstitutional.²⁸ It remains to be seen how exactly this decision will affect TLC’s enforcement efforts against illegal commuter vans.

²³ N.Y.C. Admin. Code § 19-506(i)(1).

²⁴ *Id.*

²⁵ N.Y.C. Taxi and Limousine Commission, *supra* note 3.

²⁶ *Id.*

²⁷ N.Y.C. Taxi and Limousine Commission, *supra* note 18.

²⁸ Sybile Penhirin, *TLC Car Seizures Rule Unconstitutional by Federal Judge*, Oct. 1, 2015, DNAINFO, available at <https://www.dnainfo.com/new-york/20151001/midtown/tlc-car-seizures-ruled-unconstitutional-by-federal-judge>.

ANALYSIS OF INT. NO. 570

Section one of Int. No. 570 would amend the definition of “commuter van service” in subdivision q of section 19-502 of the Administrative Code (“the Code”) by removing language requiring prearrangement and “non-specified or irregular routes” and adding language requiring a fixed route with designated stops for picking up and discharging passengers.

Section two would amend paragraph one of subdivision e of section 19-504.2 of the Code by removing language stating that DOT’s determination that a proposed commuter van service will be “required by the present or future public convenience and necessity” expires after a six-year period and adds language providing that such determination remains in effect until it is revoked by the TLC.

Section three would amend paragraph 2 of subdivision e of section 19-504.2 of the Code by adding language requiring the fixed route and proposed stops to pick up and discharge passengers to be included in applications for authorization to operate a commuter van service

Section four would amend paragraph 7 of subdivision a of section 19-504.3 of the Code by removing the requirement that commuter van services maintain records of requests for service and trips.

Section five of Int. No. 570 would amend subdivision b of section 19-516 of the Code by removing language related to requiring that commuter van service be provided by prearrangement and adding language requiring that passengers be picked up or discharged at a designated stop set forth in the service’s authorization to operate a commuter van service issued pursuant section 19-504.2, as amended by this bill.

Section six would amend subdivision d of section 19-529.4 of the Code by removing the requirement that commuter vans carry a passenger manifest and “records evidencing

prearrangement” and adding a requirement that each commuter vans carry a map of its fixed route.

Section seven would repeal subdivision k of section 19-504.2 of Code, which instituted the 1997 moratorium and study referenced above.

Section eight would reletter Subdivision l of section 19-504.2 as subdivision k.

Section nine states that the local law would take effect in 120 days.

ANALYSIS OF INT. NO. 860

Section one of Int. No. 860 would amend the Code to add a new section 19-544 in relation to a commuter van study. Under new section 19-544, the TLC would conduct a study of safety related issues in the commuter van industry to be submitted to the Council and posted online by March 1, 2016. The study would include, at a minimum: information on safety related violations; data on vans, bases, and drivers; information on illegal commuter vans; a plan for preventing vans from operating on bus routes; the number of vans seized; information on the most utilized routes and ridership; a plan to reduce illegal commuter vans; information on license renewals for vans, bases, and drivers; and a discussion on the selection of routes. The TLC would not issue any new commuter van licenses from the effective date until the submission of the report.

Section two states that the local law would take effect immediately.

ANALYSIS OF INT. NO. 861

Section one of Int. No. 861 would amend paragraph 1 of subdivision i of section 19-506 of the Code to increase the civil penalties applicable to operators of commuter vans. The civil penalty amounts for any violations related to commuter vans and for illegally operating a commuter van would be raised from \$1,000 for a first offense to \$3,000 and from \$2,500 to

\$4,000 for second and subsequent offenses within two years. For violations that involve operation of a commuter van service without TLC authorization, the penalties for such operators would be raised from a range of \$500 to \$1,000 for a first offense to \$3,000, and for subsequent violations, the penalty amount would be raised from \$1,000 to \$4,000.

Section two states that the local law would take effect in 90 days.

Int. No. 570

By Council Members Williams, Kallos and Koo

A Local Law to amend the administrative code of the city of New York, in relation to eliminating the prearrangement and passenger manifest requirements for commuter vans, repealing the requirement that commuter vans renew their license every six years, and repealing subdivision k of section 19-504.2.

Be it enacted by the Council as follows:

Section 1. Subdivision q of section 19-502 of the administrative code of the city of New York is amended to read as follows:

q. "Commuter van service" means a subclassification of common carriers of passengers by motor vehicles as such term is defined in subdivision seven of section two of the transportation law, that provides a transportation service through the use of one or more commuter vans [on a prearranged regular daily basis], over [non-specified or irregular routes] a fixed route, with designated stops for picking up and discharging passengers, between a zone in a residential neighborhood and a location which shall be a work related central location, a mass transit or mass transportation facility, a shopping center, recreational facility or airport. A "commuter van service" shall not include any person who exclusively provides: (1) any one or more of the forms of transportation that are specifically exempted from article seven of the transportation law; or (2) any one or more of the forms of transportation regulated under this chapter other than transportation by commuter vans.

§ 2. Paragraph one of subdivision e of section 19-504.2 of the administrative code of the city of New York is amended to read as follows:

(1) The applicant shall have the burden of demonstrating that the service proposed will be required by the present or future public convenience and necessity. The commission shall not issue an authorization to operate a commuter van service unless the commissioner of transportation determines that the service proposed will be required by the present or future public convenience and necessity. Such determination that the service proposed will be required by the present or future public convenience and necessity shall be in effect [for six years after the

date of issuance of such authorization, unless] until such authorization has [not been renewed or has] been revoked by the commission [prior to the end of such six-year period in which case such determination shall be in effect only until the expiration or revocation of such authorization]. After the [expiration or] revocation of such determination of public convenience and necessity, no authorization to operate a commuter van service shall be renewed unless a new determination is made by the commissioner of transportation that the service proposed will be required by the present or future public convenience and necessity.

§ 3. Paragraph 2 of subdivision e of section 19-504.2 of the administrative code of the city of New York is amended to read as follows:

(2) When such determination by the commissioner of transportation is required by this subdivision, the application for authorization to operate a commuter van service shall set forth the geographic area proposed to be served by the applicant, the fixed route and proposed stops to pick up and discharge passengers within such geographic area and the maximum number of vehicles to be operated and the capacity of each such vehicle, and the commission shall forward a copy of such application to the commissioner of transportation.

§ 4. Paragraph 7 of subdivision a of section 19-504.3 of the administrative code of the city of New York is amended to read as follows:

(7) A commuter van service and an owner of a commuter van shall maintain such records as the commission shall prescribe by rule [including, but not limited to, records of requests for service and trips]. Such records shall be subject to inspection by authorized officers or employees of the commission during regular business hours.

§ 5. Subdivision b of section 19-516 of the administrative code of the city of New York is amended to read as follows:

b. No commuter van service and no person who owns, operates or drives a commuter van, shall provide, permit or authorize the provision of transportation service to a passenger unless such [service to a] passenger is [on the basis of a telephone contract or other prearrangement and such prearrangement is evidenced by such records as are required by the commission to be

maintained] picked up or discharged at a designated stop set forth in the authorization to operate a commuter van service issued pursuant to section 19-504.2 of this chapter. Where a violation of this subdivision has been committed by a driver of a commuter van, the commuter van service and the owner of such vehicle shall also be liable for a violation of this subdivision.

§ 6. Subdivision d of section 19-529.4 of the administrative code of the city of New York is amended to read as follows:

d. All commuter vans shall at all times carry inside the vehicle and the operator shall produce upon demand of any officer or employee designated by the commission, any police officer or any authorized officers or employees of the department of transportation or the New York city transit authority:

1. the commuter van license;
2. the driver's commuter van driver's license;
3. the authorization to operate a commuter van service, or copy thereof reproduced in accordance with the specifications set forth in the rules of the commission;
4. the vehicle registration and evidence of current liability insurance; and
5. [a passenger manifest, and such records evidencing prearrangement as are prescribed by rule of the commission] a map of such commuter van's fixed route.

§ 7. Subdivision k of section 19-504.2 of the administrative code of the city of New York is hereby REPEALED.

§ 8. Subdivision l of section 19-504.2 is relettered as subdivision k to read as follows:

[l] k. The commission shall post on its website links to all New York city laws and rules governing the operation of commuter vans. Not more than three days after issuing an authorization to operate a commuter van service, the commission shall post on its website the geographic area where such service is authorized and the number of commuter vans authorized to be used in providing such service.

§ 9. This local law shall take effect 120 days after its enactment into law.

LS# 1594 and 1761
GZ/LF
November 18, 2014

Int. No. 860

By Council Members Miller, Lancman, Koo and Williams

A Local Law to amend the administrative code of the city of New York, in relation to requiring a study of safety related issues in the commuter van industry and suspending new commuter van licenses pending the completion of such study.

Be it enacted by the Council as follows:

Section 1. Chapter 5 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-544 to read as follows:

§ 19-544 Commuter van study. a. The commission shall conduct a study and issue a report on commuter vans. The report shall include, but not be limited to, the following information:

1. the number of safety related violations, disaggregated by the number that result in crashes, committed by commuter vans;
2. the number of current commuter vans, commuter van drivers, and commuter van bases authorized by the commission;
3. the number of illegal commuter vans operating in new york city to the extent known or estimated, and a discussion of the state of the commuter van industry;
4. a plan on how the commission will ensure that commuter vans do not operate on bus routes, including, but not limited to, what enforcement measures the commission is currently using;
5. the number of commuter vans that were seized by the commission in the prior calendar year;
6. information regarding the twenty most utilized commuter van routes;

7. data on commuter van ridership, including information on how commuter vans are being utilized to connect to other mass transit to the extent known;

8. a plan for the reduction of commuter vans operating illegally;

9. data on how many licenses for commuter vans, commuter van drivers, and commuter van bases were renewed and how many were rejected in the prior calendar year, as well as any changes in the number of commuter vans affiliated with each licensed base in the prior calendar year; and

10. discussion of how commuter van routes are selected.

b. On or before March 1, 2016, and annually thereafter, the commission shall provide a report to the council and post on its website the study completed pursuant to subdivision a of this section for the prior calendar year.

c. Notwithstanding any other rule or regulation, the commission shall not issue any new commuter van licenses from the effective date of the local law that added this section prior to the completion and submission of the first report, pursuant to subdivision a of this section.

§ 2. This local law shall take effect immediately.

Int. No. 861

By Council Members Miller, Lancman, Koo and Williams

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to increasing certain penalties applicable to operators of commuter vans

Be it enacted by the Council as follows:

Section 1. Paragraph 1 of subdivision i of section 19-506 of the administrative code of the city of New York is amended to read as follows:

(1) Notwithstanding any inconsistent provision of this chapter, any person who violates any provision of this chapter or any rule promulgated hereunder applicable to commuter van services, commuter vans or drivers of commuter vans shall be subject to a civil penalty in an amount to be prescribed by the commission by rule for specific violations which amount shall not exceed [one] three thousand dollars for a first violation and [twenty-five hundred] four thousand dollars for a second and subsequent violation committed within two years of a first violation. Where such violation involves the operation of a commuter van service without the authorization required by this chapter, the operation of a commuter van without the license required by this chapter or the operation of a commuter van that is not pursuant to a current, valid authorization to operate a commuter van service, such person shall be liable for a civil penalty of [not less than five hundred dollars and] not more than [one] three thousand dollars, and for a subsequent violation committed within two years of the first violation, such person shall be liable for a civil penalty of [not less than one thousand dollars and] not more than [twenty-five hundred] four thousand dollars.

§ 2. This local law takes effect 90 days after it becomes law.

KET 7/16/15 11:35AM
LS 3614/2014