

LOCAL LAW 115 OF 1993

Int. No. 519-A

By Council Members Dear, McCaffrey, Spigner, Clarke, Leffler, Eisland and Warden (in conjunction with the Mayor); also Council Members Alter, Malave-Dilan, Harrison, Koslowitz, Marshall, McCabe, Rivera, Williams and Wooten

A LOCAL LAW

To amend the New York city charter and the administrative code of the city of New York, in relation to the licensing and regulation of commuter vans and to the adjudication of violations for unlicensed activity.

Be it enacted by the Council as follows:

Section 1. Subdivision c of section 2303 of the New York city charter, as amended by chapter 697 of the laws of 1987, is amended to read as follows:

c. (1) The commission or an administrative tribunal which may be established by the commission to adjudicate charges of violation of provisions of the administrative code and rules and regulations promulgated thereunder shall have the power to enforce its decisions and orders imposing civil penalties, not to exceed ten thousand dollars for each respondent, for violations relating to unlicensed vehicles for hire and unlicensed drivers of vehicles for hire *and for violations relating to the operation of commuter van services without authorization and the operation of unlicensed commuter vans and unlicensed drivers of commuter vans pursuant to chapter five of title nineteen of the administrative code* as if they were money judgments, without court proceedings, in the following manner: Any such decision or order of the commission or administrative tribunal imposing a civil penalty, whether the adjudication was had by hearing or upon default or otherwise, shall constitute a judgment rendered by the commission or administrative tribunal which may be entered in the civil court of the city of New York or any other place provided for the entry of civil judgments within the state. Before a judgment based upon a default may be so entered the commission or administrative tribunal shall have first notified the respondent by first class mail in such form as the commission may direct: (i) of the default and order and the penalty imposed; (ii) that a judgment will be entered in the civil court of the city of New York or any other place provided by law for the entry of civil judgments within the state of New York; and (iii) that entry of such judgment may be avoided by requesting a stay of default for good cause and either requesting a hearing or entering a plea pursuant to the rules of the commission or administrative tribunal within thirty days of the mailing of such notice.

(2) The commission or tribunal shall not enter any decision or order pursuant to *paragraph one* of this subdivision unless the notice of violation shall have been served in the same manner as is prescribed for service of process by article three of the civil practice law and rules or article three of the business corporation law except that: (a) with respect to any notice of violation which alleges the operation of an unlicensed vehicle for hire the operator of such vehicle who is not the owner thereof but who uses or operates such vehicle with the permission of the owner, express or implied, shall be deemed to be the agent of such owner to receive such notice of violation and service made pursuant to this [subdivision] *paragraph* on such operator shall also be deemed to be lawful service upon such owner; or (b) with respect to any notice of violation which alleges the operation of an unauthorized commuter van service or an unlicensed commuter van, the operator of the vehicle giving rise to such violation who is not the owner of such commuter van service or such commuter van, as applicable, but who uses or operates

such vehicle with the permission, express or implied, of the owner of such commuter van service or such commuter van, as the case may be, shall be deemed to be the agent of the owner of such commuter van service or such commuter van, as the case may be, to receive such notice of violation. Service made pursuant to this paragraph on such operator shall be deemed to be lawful service upon the owner of such commuter van service or commuter van, as applicable.

§2. Subdivision i of section 19-502 of the administrative code of the city of New York, as amended by local law 90 for the year 1989, is amended to read as follows:

i. Except as is otherwise provided in subdivision f of section 19-506 "owner" means any person, firm, partnership, corporation or association owning and operating a licensed vehicle or vehicles and shall include a purchaser under a reserve title contract, conditional sales agreement or vendors lien agreement, and a lessee of any such vehicle or vehicles under a written lease or similar contract approved by the commission. *Provided, however, that with respect to a commuter van, "owner" means a person, other than a lien holder, having the property in or title to a vehicle.*

The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person and also includes any lessee or bailee of a vehicle having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days. If a vehicle is sold under a contract of sale which reserves a security interest in the vehicle in favor of the vendor, such vendor or his assignee shall not, after delivery of such vehicle, be deemed to be an owner within the provisions of this subdivision, but the vendee, or his or her assignee, receiving possession thereof, shall be deemed an owner notwithstanding the terms of such contract, until the vendor or his or her assignee shall retake possession of such vehicle. A secured party in whose favor there is a security interest in any vehicle out of his or her possession shall not be deemed to be an owner within the provisions of this subdivision.

§3. Section 19-502 of the administrative code of the city of New York is amended by adding thereto three new subdivisions p, q and r to read as follows:

p. *"Commuter van" means a motor vehicle operated in a commuter van service having a seating capacity of at least nine passengers but not more than twenty passengers or such greater capacity as the commission may establish by rule and carrying passengers for hire in the city duly licensed as a commuter van by the commission and not permitted to accept hails from prospective passengers in the street. For purposes of the provisions of this chapter relating to prohibitions against the operation of an unauthorized commuter van service or an unlicensed commuter van and to the enforcement of such prohibitions and to the imposition of penalties for violations of such prohibitions, the term shall also include any common carrier of passengers by motor vehicle not subject to licensure as a taxicab, for-hire vehicle, or wheelchair accessible van or not operating as an authorized bus line pursuant to applicable provisions of law.*

The commission shall submit to the council the text of any proposed rule relating to the maximum capacity of commuter vans at the time such proposed rule is published in the City Record.

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, 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.

r. "Security interest" means an interest in a vehicle reserved or created by an agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. A security interest is perfected when it is valid against third parties generally, subject only to specific statutory exceptions.

§4. Subdivision a of section 19-504 of the administrative code of the city of New York, as amended by local law number 83 for the year 1989, is amended to read as follows:

a.(1) A taxi-cab, coach, wheelchair accessible van, commuter van or for-hire vehicle shall operate within the city of New York only if the owner shall first have obtained from the commission a taxicab, coach, wheelchair accessible van, commuter van or for-hire vehicle license for such vehicle and only while such license is in full force and effect. Vehicle licenses shall be issued for a term of not less than one nor more than two years and shall expire on the date set forth on the license unless sooner suspended or revoked by the commission. No motor vehicle other than a duly licensed taxicab shall be permitted to accept hails from passengers in the street. No commuter van shall be operated within the city of New York unless it is operated as part of a current, valid authorization to operate a commuter van service duly issued by the commission pursuant to section 19-504.2 of this chapter.

(2) No commuter van license shall be issued unless the following conditions are satisfied:

(i) such commuter van is to be operated as part of a current, valid authorization to operate a commuter van service issued pursuant to section 19-504.2 of this chapter;

(ii) the commission determines that the applicant is fit, willing and able to operate a commuter van;

(iii) the applicant is in compliance with the provisions of section 19-504.3 of this chapter, and the applicant has not engaged in any conduct that would be a basis for suspension or revocation of such license pursuant to rules promulgated by the commission; and

(iv) the applicant has satisfied such other criteria as the commission deems to be in the interest of the safety and convenience of the public and necessary to effectuate the purposes of this chapter.

§5. Subdivision f of section 19-504 of the administrative code of the city of New York, as amended by local law number 35 for the year 1990, is amended to read as follows:

f. All taxicabs now or hereafter licensed pursuant to the provisions of this chapter shall be inspected at an inspection facility operated by the commission at least once every four months, in accordance with a procedure to be established by the commission. All other vehicles now or hereafter licensed pursuant to the provisions of this chapter other than commuter vans shall be inspected at official inspection stations licensed by the commissioner of motor vehicles pursuant to section three hundred three of the vehicle and traffic law at least once every four months in accordance with the regulations of the commissioner of motor vehicles, codified in part seventy-nine of title fifteen of the official compilation of codes, rules and regulations of the state of New York (15 N.Y.C.R.R. part 79). All commuter vans now or hereafter licensed pursuant to the provisions of this chapter shall be inspected and shall meet safety standards as provided in paragraph two of subdivision a of section 19-504.3 of this chapter. The fee payable to the commission for the inspection required for issuance of a certificate of inspection for a taxicab, inclusive

of the issuance of such certificate, shall not exceed thirty-five dollars for taxicabs inspected through June 30, 1991 and fifty dollars for taxicabs inspected on or after July 1, 1991. If any taxicab fails to pass such inspection, it shall be reinspected for no additional fee. If any taxicab fails to pass such reinspection, it shall be reinspected for a second time for an additional fee of thirty-five dollars. If any taxicab fails to pass such second reinspection, it shall be reinspected a third time. No additional fee shall be charged for third or subsequent reinspections. The fees payable to the official inspection station for the inspection and the issuance of a certificate of inspections for all other licensed vehicles *other than commuter vans* shall be the fees charged and collected pursuant to section three hundred five of the vehicle and traffic law. The commission or any other agency authorized by law may conduct on-street inspections of vehicles licensed pursuant to the provisions of this chapter. The date of the inspection of a taxicab and the signature of the person making the inspection shall be recorded upon the rate card in the space provided therefor. An owner shall be ordered by the commission to repair or replace his or her licensed vehicle where it appears that it no longer meets the reasonable standards for safe operation prescribed by the commission. Upon failure of such owner to have his or her vehicle inspected or to comply with any such order within ten days after service thereof, the license shall be suspended; upon failure of such owner to comply with any such order within one hundred twenty days after service thereof, the license may, at the discretion of the commission, be deemed to have been abandoned by nonuser.

§6. Section 19-504 of the administrative code of the city

of New York is amended by adding thereto five new subdivisions l, m, n, o and p to read as follows:

l. Prior to the issuance of a commuter van license, the applicant shall be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay any processing fee required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; the officers, principals, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation.

m. The commission shall approve or disapprove an application for a commuter van license within one hundred and eighty days after the completed application is filed. The failure to approve or disapprove such completed application within such time shall be deemed a disapproval of such application.

n. Every commuter van license shall be issued on the condition that the applicant is in compliance with the registration and insurance requirements set forth in section 19-504.3 of this chapter and any rules promulgated pursuant thereto during the time that such license is in effect. Notwithstanding any other provision of law, the failure to comply with either such registration or insurance requirements shall render the commuter van license suspended on and after the date of such noncompliance and during the period of such noncompliance, and any person using such commuter van in the course of operations of a commuter van service during such period of noncompliance shall be deemed to be operating without a license required by this section.

o. The annual license fee for each commuter van license shall be two hundred seventy-five dollars. Commencing two years after the date of enactment of the local law that added this subdivision, the annual license fee for each commuter van shall be an amount equal to the license fee for a for-hire vehicle set forth in subdivision b of this section, as it may be amended. The license fee shall be prorated to the term of the license.

p. A commuter van license shall not be transferable or assignable.

§7. The administrative code of the city of New York is amended by adding a new section 19-504.2 to read as follows:

§19-504.2 Authorization to operate a commuter van service. *a. No person shall operate a commuter van service wholly within the boundaries of the city or partly within the city if the partial operation consists of the pick up and discharge of passengers wholly within the city without first obtaining authorization from the commission.*

b. The commission shall not issue or renew an authorization to operate a commuter van service unless the following conditions have been satisfied:

(1) the commission determines that the applicant is fit, willing and able to provide the transportation for which authorization is sought;

(2) the applicant is in compliance with the provisions of section 19-504.3 of this chapter, and the applicant has not engaged in any conduct that would be a basis for suspension or revocation of such authorization pursuant to rules promulgated by the commission; and

(3) the applicant has satisfied such other criteria as the commission deems to be in the interest of the safety and convenience of the public and necessary to effectuate the purposes of this chapter.

c. Prior to the issuance or renewal of an authorization to operate a commuter van service, the applicant shall be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay any processing fee required by the state division of criminal justice services.

Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; the officers, principals, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation.

d. An application for an authorization to operate a commuter van service or for renewal thereof shall be made to the commission in the form and manner prescribed by the commission.

e.(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 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.

(2) When such a 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 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.

(3) The commissioner of transportation, after consultation with the state department of transportation, shall make a determination whether the service proposed in the application will be required by the present or future public convenience and necessity. The commissioner of transportation may request that the applicant provide any additional information relevant to such determination. The commissioner of transportation shall notify the New York city transit authority and all council members and community boards representing any portion of the geographic area set forth in the application for the purpose of obtaining comment on the present or future public convenience and necessity for any proposed service. The commissioner of transportation shall provide for publication in the City Record of a notice of any such application and shall allow for public comment on such application for a period not to exceed sixty days after the date of publication of such notice. If any such application is protested by a bus line operating in the city or by the New York city transit authority, and such bus line and/or transit authority has timely submitted objections to the application to the commissioner of transportation, the commissioner shall, in making such determination, evaluate such objections in accordance with the following criteria:

(a) the adequacy of the existing mass transit and mass transportation facilities to meet the transportation needs of any particular segment of the general public for the proposed service; and

(b) the impact that the proposed operation may have on any existing mass transit or mass transportation facilities. Any determination by the commissioner that a service proposed will be required by the present or future public convenience and necessity shall specify the geographic area where service is authorized and the number of commuter vans authorized to be used in providing such service.

f.(1) The commission, after consultation with the state department of transportation, shall approve or disapprove such application for authorization to operate a commuter van service within one hundred eighty days after the date a completed application has been filed. The failure to approve or disapprove such completed application within such one hundred eighty day period shall be deemed a disapproval of such application.

(2) Any determination by the commission to approve an application for authorization to operate a commuter van service pursuant to this section shall be in writing and shall be submitted to the council within five days of such determination being made. Within twenty days of such submission the council may adopt a resolution by majority vote of all council members to review that determination.

(3) Within thirty days of the adoption of the council of a resolution pursuant to this subdivision, the council, may act by local law to approve or disapprove the determination of the commission. In the event that the council fails to act by local law within the thirty day period provided for in this paragraph the determination of the commission shall remain in effect.

g. An authorization to operate a commuter van service shall be issued for a term of not less than one nor more than two years and shall expire on the date set forth in such authorization unless sooner suspended or revoked by the commission.

h. The commission shall not issue a temporary authorization to operate a commuter van service. An authorization to operate a commuter van service shall not be assignable or transferable, unless otherwise provided by the commission.

i. In the event of the loss, mutilation or destruction of any authorization to operate a commuter van

service the owner shall file such statement and proof of the facts as the commission may require, with a fee not to exceed twenty-five dollars for each authorization, at the offices of the commission, and the commission may issue a duplicate or substitute authorization.

j. No application for authorization to operate a commuter van service shall be approved if the applicant has been found guilty of operating a commuter van service without authorization to operate such commuter van service two times within a six-month period prior to the date of application, provided that such violations were committed on or after the date occurring six months after the effective date of this subdivision.

§8. The administrative code of the city of New York is amended by adding thereto a new section 19-504.3 to read as follows:

§19-504.3 Conditions of operation relating to commuter vans. *a. A commuter van service and an owner of a commuter van shall be responsible for compliance with the following provisions and shall be liable for violations thereof:*

(1) No commuter van shall be used in the course of operations of a commuter van service unless a commuter van license has been obtained for such vehicle pursuant to section 19-504 of this chapter and such commuter van displays a license identification in the manner prescribed by the commission.

(2) No commuter van shall be used in the course of operations of a commuter van service unless such vehicle (a) is inspected by the state department of transportation as provided under section one hundred forty of the transportation law or any rules or regulations promulgated thereunder or as provided under any agreement between the state department of transportation and the commission entered into pursuant to subparagraph one of paragraph a of subdivision five of section eighty of the transportation law, (b) prominently displays the name of the holder of the authorization and certificate evidencing an inspection, and (c) meets the vehicle safety standards prescribed by rule or regulation of the state commissioner of transportation pursuant to section one hundred forty of the transportation law.

(3) No commuter van shall be used in the course of operations of a commuter van service unless such vehicle is in compliance with the registration requirements of the vehicle and traffic law.

(4) No commuter van shall be used in the course of operations of a commuter van service unless a surety bond or policy of insurance is maintained covering such commuter van conditioned for the payment of all claims and judgments for damages or injuries caused in the operation, maintenance, use or the defective construction of such commuter van in at least the following amounts unless higher amounts are established by rule of the commission:

(a) if the commuter van has a carrying capacity of twelve passengers or less: for personal injury or death to one person, one hundred thousand dollars; for personal injury or death to all persons in one accident, three hundred thousand dollars, with a maximum of one hundred thousand dollars for each person; and for property damage, fifty thousand dollars.

(b) if the commuter van has a carrying capacity of more than twelve passengers and less than twenty-one passengers: for personal injury or death to one person, one hundred thousand dollars; for personal injury or death to all persons in one accident, five hundred thousand dollars, with a maximum of one hundred thousand dollars for each person; and for property damage, fifty thousand dollars.

(c) if the commuter van has a carrying capacity of more than twenty passengers: for personal injury or

death to one person, one hundred thousand dollars; for personal injury or death to all persons in one accident, one million dollars, with a maximum of one hundred thousand dollars for each person; and for property damage, fifty thousand dollars.

(5) No commuter van shall be used in the course of operations of a commuter van service unless the driver holds (a) a commercial driver's license which pursuant to the vehicle and traffic law is valid for the operation of such commuter van for the transportation of passengers for-hire and (b) a commuter van driver's license issued pursuant to section 19-505 of this chapter.

(6) No commuter van that utilizes a two-way radio or other communications system shall be used in the course of operations of a commuter van service unless such commuter van service and the owner of such commuter van are in compliance with all regulations of the federal communications commission applicable to such use.

(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.

(8) A commuter van service shall designate each and every driver who operates pursuant to an authorization to operate such commuter van service as agent for service of any and all legal process from the commission which may be issued against such commuter van service. An owner of a commuter van shall designate each and every driver who operates such commuter van as agent for service of any and all legal process from the commission which may be issued against such commuter van owner.

b. A commuter van service shall certify annually in accordance with rules of the commission that such commuter van service is in compliance with title III of the federal americans with disabilities act of 1990 (42 U.S.C. §12101 et seq.) and any regulations promulgated thereunder, as such act and regulations may be amended.

c. A commuter van service shall comply with such provisions of section five of the federal omnibus transportation testing act of 1991 (49 U.S.C. App. § 2717) and any regulations promulgated thereunder, as that act and regulations may be amended, as are applicable to such commuter van service. A commuter van service shall certify such compliance annually in accordance with rules of the commission.

§9. The administrative code of the city of New York is amended by adding thereto a new section 19-504.4 to read as follows:

§19-504.4 Renewal, suspension and revocation of authorizations to operate a commuter van service, commuter van licenses and commuter van drivers' licenses. *a. An authorization to operate a commuter van service shall be revoked after the holder of such authorization has had an opportunity for a hearing in accordance with procedures to be established by the commission and upon the occurrence of any one or more of the following conditions:*

(1) Where each commuter van comprising a number of commuter vans equaling at least thirty percent of the total number of commuter vans operating as part of the same current, valid authorization rounded up to the next whole number, has failed to maintain the required liability insurance at least three times within a twelve month period;

(2) Where each commuter van comprising a number of commuter vans equaling at least thirty percent of the total number of commuter vans operating as part of the same current, valid authorization, rounded up to the next whole number, has operated without complying with any safety inspection requirements arising from any applicable law, rule or regulation at least three times within a twelve month period;

(3) Where a commuter van driver has had his or her license revoked pursuant to subdivision r of section 19-505 of this chapter while operating as part of such authorization and thereafter is found to be operating a commuter van as part of such authorization without a commuter van driver's license required pursuant to section 19-505 of this chapter three times within a six month period; or

(4) Where the number of violations of paragraph five of subdivision a of section 19-504.3 of this chapter occurring within a twelve month period is equal to the following: ninety percent of the number of commuter vans authorized to operate as part of such authorization, rounded up to the next whole number, or five, whichever is greater.

b. Any commuter van license shall be revoked after the holder of such license has had an opportunity for a hearing in accordance with procedures to be established by the commission and after which the holder of such license is found guilty of any of the following:

(1) Failure to maintain the required liability insurance three times within a period of one year; or

(2) Operating without complying with any safety inspection requirements arising from any applicable law, rule or regulation three times within a period of one year.

c. The commission may refuse to renew any authorization to operate a commuter van service or any commuter van license or commuter van driver's license required by this chapter and, after due notice and an opportunity to be heard, may suspend or revoke any such authorization or license upon the occurrence of any one or more of the following conditions:

(1) the holder of an authorization or a license or any of its officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has been found by the commission to have violated any of the provisions of this chapter or any rule promulgated thereunder governing the operation of commuter van services, commuter vans and commuter van drivers; or

(2) the holder of an authorization or a license or any of its officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has made a material false statement or concealed a material fact in connection with the filing of any application or certification pursuant to this chapter or has engaged in any fraud or misrepresentation in connection with rendering transportation service; or

(3) the holder of an authorization or a license or any of its officers, principals, directors, or stockholders owning more than ten percent of the outstanding stock of the corporation has not paid any penalty duly imposed pursuant to the provisions of this chapter or any rule promulgated hereunder; or

(4) the holder of an authorization or a license or any of its officers, principals, directors, or stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commission, has a direct relationship to such person's fitness or ability to perform any of the activities for which an authorization or a license is required under this chapter, or has been convicted of any other offense which under the provisions of article

twenty-three-a of the correction law, would provide a basis for the commission to refuse to renew, or to suspend or revoke, such authorization or license; or

(5) the holder of an authorization or a license has failed to maintain the conditions of operation applicable to the particular authorization or license as provided in this chapter; or

(6) the holder of an authorization or a license or any of its officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has been found to have violated any of the provisions of section 8-107 of the code concerning unlawful discriminatory practices in public accommodations in the operation of a commuter van service or a commuter van.

d. Notwithstanding the foregoing provisions, the chairperson of the commission may immediately suspend any authorization to operate a commuter van service or commuter van license or commuter van driver's license issued under this chapter without a prior hearing where the chairperson determines that the continued possession of such authorization or license poses a serious danger to the public health, safety or welfare, provided that after such suspension an opportunity for a hearing shall be provided on an expedited basis, within a period not to exceed fourteen days.

e. Where the commission suspends or revokes an authorization to operate a commuter van service pursuant to this section:

(1) any commuter van license which has been issued as part of such authorization shall be deemed suspended or revoked, as the case may be, where the suspension or revocation of the authorization to operate a commuter van service was based, in whole or in part, upon the operation of such commuter van; or

(2) any commuter van license which has been issued as part of such authorization shall continue to be valid in accordance with its terms where the suspension or revocation of the authorization to operate a commuter van service was not based, in whole or in part, upon the operation of such commuter van; provided, however, that such commuter van shall not be operated in the course of operations of such commuter van service unless and until such commuter van operates as part of a current, valid authorization to operate a commuter van service; provided, further that any such commuter van which operates without being part of a current, valid authorization to operate a commuter van service shall be deemed to be operating without a commuter van license and shall be subject to any and all of the penalties that may be imposed under this chapter for the unlicensed operation of commuter vans, including seizure and forfeiture as provided in sections 19-529.2 and 19-529.3 of this chapter.

f. Notwithstanding any other provision of law, any person who has had an authorization to operate a commuter van service revoked by the commission pursuant to this section shall not be permitted to apply for an authorization to operate a commuter van service under this chapter for a period of six months after the date of such revocation.

g. The commission shall notify the holder of an authorization to operate a commuter van service of all violations issued to any driver or vehicle operating pursuant such authorization.

§10. Subdivision a of section 19-505 of the administrative code of the city of New York, paragraph (iii) as amended by local law number 76 for the year 1986, is amended to read as follows:

a. No person shall drive any motor vehicle for hire which is regulated by the provisions of this chapter without first obtaining from the commission:

- (i) a taxicab driver's license, if the vehicle driven is a taxicab; or*
- (ii) a coach driver's license, if the vehicle driven is a coach; or*
- (iii) a for-hire vehicle driver's license, if the vehicle driven is a for-hire vehicle; or*
- (iv) a wheelchair accessible van driver's license, if the vehicle driven is a wheelchair accessible van; or*
- (v) a commuter van driver's license, if the vehicle driven is a commuter van.*

The issuance of a license to a person to drive any one of the aforementioned licensed vehicles shall not entitle such person to drive any other such licensed vehicle without first obtaining the additional appropriate driver's license.

§11. The opening clause of subdivision b of section 19-505 of the administrative code of the city of New York is amended to read as follows:

Each applicant for a license, other than a commuter van driver's license, must:

§12. Subdivisions d, f and k of section 19-505 of the administrative code of the city of New York are amended to read as follows:

d. Each applicant for a driver's license under the provisions of this chapter, other than a commuter van driver's license, shall be examined as to his or her physical condition by a duly licensed physician designated by the commission; each such applicant shall also be examined by the commission as to his or her knowledge of the city, and if the result of either examination is unsatisfactory he or she shall be refused a license.

f. Upon satisfactory fulfillment of the [foregoing] applicable requirements, there shall be issued to the applicant a driver's license which shall be in such form as the commission may direct.

k. Every [licensed] driver who has obtained a license pursuant to this section shall comply with the rules and regulations promulgated by the commission for drivers of the type of vehicle for which the driver is licensed.

§13. Section 19-505 of the administrative code of the city of New York is amended by adding thereto four new subdivisions m, n, o and p to read as follows:

m. Notwithstanding any other provision of this section, the commission shall not issue a commuter van driver's license to an applicant unless the applicant: (1) has been fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services for which the applicant shall pay any processing fee required by the state division of criminal justice services; (2) satisfies the commission that such applicant is fit and able to drive the commuter van for which the license is sought; (3) possesses a commercial driver's license which pursuant to the vehicle and traffic law is valid for the operation of such commuter van for the transportation of passengers for-hire; (4) has met the qualifications set forth in article nineteen-A of the vehicle and traffic law for the operation of a bus as defined in such article; and (5) has not engaged in any conduct that would be a basis for suspension or revocation of such license pursuant to rules promulgated by the commission.

n. The commission shall approve or disapprove an application for the issuance of a commuter van driver's license within one hundred eighty days after the completed application is filed. The failure to approve or disapprove such application within such time shall be deemed a disapproval of such application.

o. Every commuter van driver's license shall be issued on the condition that the applicant possesses a commercial driver's license and complies with article nineteen-A of the vehicle and traffic law as described in paragraphs three and four of subdivision m of this section during the time that such commuter van driver's license is in effect. Notwithstanding any other provision of law, suspension or revocation of such commercial driver's license pursuant to the vehicle and traffic law or noncompliance with article nineteen-A of the vehicle and traffic law shall render the commuter van driver's license suspended on and after the date of the suspension or revocation of such commercial driver's license or noncompliance with such article nineteen-A and during the period of such suspension, revocation or noncompliance, and any person who drives a commuter van that is required to be licensed pursuant to section 19-504 of this chapter during the period of such suspension, revocation or noncompliance shall be deemed to be driving a commuter van without a license required by this section.

p. Any commuter van driver's license issued pursuant to this section shall be revoked after the holder of such license has had an opportunity for a hearing in accordance with procedures to be established by the commission and such holder is found to have failed to comply with paragraph two of subdivision a of section 19-529.1 of this chapter three times within a period of six months.

§14. Subdivisions c and d of section 19-506 of the administrative code of the city of New York, subdivision c as amended by local law number 13 for the year 1992 and subdivision d as amended by local law number 88 for the year 1989, are amended to read as follows:

c. (1) No person shall operate or permit to be operated any vehicle bearing the words "hack," "taxi," "taxicab," "cab," "coach," "for hire vehicle," "livery," "limousine," "commuter van service," "van service," "commuter van," "van" or other designation of similar import unless the vehicle is licensed as a taxicab, coach, for-hire vehicle, or commuter van, as appropriate, and the driver has an appropriate driver's license under this chapter, and in the case of a commuter van service, such person has an authorization to operate a commuter van service, nor shall any person advertise or hold himself or herself out as doing business as a taxi, taxicab, hack or coach service unless he or she holds a vehicle license and medallion for each vehicle used therefor, nor shall any person advertise or hold himself or herself out as doing business as a "limousine service," a "livery service," a for-hire vehicle service," or other similar designation unless a for-hire vehicle license is in effect for each vehicle used therefor, nor shall any person advertise or hold himself or herself out as doing business as a "commuter van service," "van service," "commuter van," "van" or other designation of similar import unless such person is authorized to operate a commuter van service and a commuter van license is in effect for each vehicle used therefor as required by this chapter, nor shall any person advertise or hold himself or herself out as doing business as a wheelchair accessible van service or other similar designation unless a wheelchair accessible van license is in effect for each vehicle used therefor.

(2) Any person required to obtain a license under this chapter shall conspicuously state in all print and broadcast advertising, with respect to such licensed activity, the vehicle license number and that the activity is licensed by the commission; provided, however, that as applied to the owner of a for-hire vehicle base station, or wheelchair accessible van base station, such license number shall be the number of the license issued to such base station; provided further, that the requirement of this subdivision respecting the display of vehicle license numbers in print and broadcast advertising shall not apply to any owner of five or more taxicabs. No person who is required to obtain authorization to operate a commuter van service under this chapter shall advertise in print or in a broadcast medium the activity

for which authorization is required without conspicuously stating in such advertising the commuter van service authorization number and that the activity is licensed by the commission.

d. Any person, other than a person holding a driver's license issued pursuant to section [19-504] 19-505 and a New York state class [one, two, three or four] A, B, C or E license, neither of which is revoked or suspended, who drives or operates for hire a licensed vehicle in the city except a commuter van, shall be guilty of a violation hereof, and upon conviction in the criminal court, shall be punished by a fine of not less than one hundred or more than five hundred dollars or imprisonment for a term not exceeding thirty days, or both such fine and imprisonment.

§15. Subdivision h of section 19-506 of the administrative code of the city of New York, as amended by local law number 13 for the year 1992 is amended by adding thereto a new paragraph 6 to read as follows:

(6) The provisions of this subdivision shall not apply to the seizure and forfeiture of commuter vans which shall be governed by sections 19-529.2 and 19-529.3 of this chapter.

§16. Section 19-506 of the administrative code of the city of New York is amended by adding thereto two new subdivisions i and j to read as follows:

i.(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 thousand dollars for a first violation and twenty-five hundred 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 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 dollars.

(2) A proceeding to impose such civil penalty shall be commenced by the service of a notice of violation returnable before the commission or an administrative tribunal of the commission. Such civil penalties shall be imposed after a hearing in accordance with the rules of the commission.

(3) Except as otherwise provided in paragraph four of this subdivision, civil penalties imposed by the commission or such tribunal may be recovered by the corporation counsel in a civil action in any court of competent jurisdiction

(4) Decisions and orders of the commission or such tribunal imposing civil penalties for violations relating to the operation of commuter van service without authorization and the operation of unlicensed commuter vans and unlicensed drivers of commuter vans may be entered and enforced as if they were money judgments of a court pursuant to subdivision c of section two thousand three hundred three of the charter.

(5) Notices of violation which are returnable to the commission or such tribunal may be served by any officers or employees 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.

j. Where the commission or administrative tribunal thereof finds an owner liable for operating a vehicle as a commuter van without an authorization to operate a commuter van service or without a commuter van license, the commission shall notify the New York state commissioner of motor vehicles pursuant to subparagraph four of paragraph a of subdivision five of section eighty of the New York state transportation law of such finding. Upon such notification, the commissioner of motor vehicles, pursuant to such subparagraph four, shall thereupon suspend the registration of such vehicle and shall deny any application for the registration of such vehicle or any application for the renewal thereof pursuant to subdivision five-a of section four hundred one of the vehicle and traffic law until such time as the commission may give notice that the violation has been corrected to its satisfaction. Operation of any motor vehicle for which the registration has been suspended as herein provided shall constitute a class A misdemeanor. The commission shall also notify the department of finance where it finds an owner liable for operating a vehicle as a commuter van without an authorization to operate a commuter van service or without a commuter van license.

§17. Section 19-516 of the administrative code of the city of New York, as amended by local law number 88 for the year 1989, is amended to read as follows:

§19-516 Acceptance of passengers by for-hire vehicles and commuter vans. a. For-hire vehicles may accept passengers only on the basis of telephone contract or prearrangement. The commission may establish such disciplinary actions as it deems appropriate for failure to abide by the provisions of this chapter.

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. 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.

§18. The administrative code of the city of New York is amended by adding thereto a new section 19-529.1 to read as follows:

§19-529.1 Prohibited acts relating to commuter vans. a. No commuter van service and no person who owns, operates or drives a commuter van shall solicit, pick up or discharge passengers, or permit or authorize the solicitation, pick up or discharge of passengers:

(1) outside of the geographical area set forth in the authorization to operate a commuter van service issued pursuant to section 19-504.2 of this chapter; or

(2) at stops of, or along a route which is traveled upon by a bus line which is operated by the New York city transit authority or the city or a private bus company which has been granted a franchise by the city. The prohibition contained in this paragraph shall not apply to the pick up or discharge of passengers in the borough of Manhattan south of Chambers Street by commuter van services who on July first, nineteen hundred ninety-two had authority from the state department of transportation to pick up or discharge passengers along bus routes in such area, provided that the scope of operations by such commuter van services along bus routes in such area shall not exceed the scope of such operations prior to July first, nineteen hundred ninety-two.

b. Where a violation of subdivision a of this section 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

subdivision a of this section.

§19. The administrative code of the city of New York is amended by adding thereto a new section 19-529.2 to read as follows:

§19-529.2 Seizure of commuter vans. a. A police officer or agent of the commission may, upon service of a notice of violation upon the owner or operator of a commuter van, seize a vehicle which such police officer or agent of the commission has reasonable cause to believe is being operated as a commuter van service by or on behalf of a person who is not operating pursuant to a current, valid authorization or operating as a commuter van without a commuter van license as required by this chapter. All passengers in any seized vehicle shall be left in or transported to a location which is readily accessible to other means of public transportation. Any vehicle seized pursuant to this section shall be delivered into the custody of the city.

b. Within one business day after the seizure of a vehicle pursuant to this section, notice of such seizure and a copy of the notice of violation shall be mailed to the owner of such vehicle at the address for such owner set forth in the records maintained by the New York state department of motor vehicles, or, for vehicles not registered in New York state, such equivalent record in such state of registration.

c. A hearing to adjudicate the violation underlying the seizure shall be held before the commission or an administrative tribunal thereof within five business days after the date of the seizure. The commission or an administrative tribunal thereof shall, within one business day of the conclusion of the hearing, render a determination as to whether the vehicle has been operated by or on behalf of a person who is not the holder of a current, valid authorization or has been operated without a commuter van vehicle license required by this chapter.

d. An owner shall be eligible to obtain release of the vehicle prior to such hearing if such owner has not previously been found liable in an administrative or judicial proceeding for operating a vehicle as a commuter van service without a current, valid authorization or operating a commuter van without a commuter van license as required by this chapter, which violation was committed within a five year period prior to the violation resulting in the seizure.

The vehicle shall be released to an eligible owner upon the posting of a bond in a form satisfactory to the commission in an amount that shall not exceed the maximum civil penalties which may be imposed for the violation underlying the seizure and all reasonable costs for removal and storage of such vehicle.

e. Where the commission or an administrative tribunal thereof, after adjudication of the violation underlying the seizure, shall find that the vehicle has been operated as a commuter van by or on behalf of a person who is not the holder of a current, valid authorization or operated as a commuter van without a commuter van license:

(1) if the vehicle is not subject to forfeiture pursuant to section 19-529.3 of this chapter, the commission shall release such vehicle to an owner upon payment of the applicable civil penalties and all reasonable removal and storage costs; or

(2) if the vehicle is subject to forfeiture pursuant to section 19-529.3 of this chapter, the commission may release such vehicle to an owner upon payment of the applicable civil penalties and all reasonable removal and storage costs, or may commence a forfeiture action pursuant to section 19-529.3 of this chapter within ten days after the owner's written demand for such vehicle.

f. Where the commission or an administrative tribunal thereof, after adjudication of the violation underlying the seizure, finds that the charge of operating without an authorization or commuter van license has not been sustained, the vehicle shall be released to the owner.

If an owner or representative of such owner has not sought to reclaim a seized vehicle within thirty days after mailing of notice to such owner of the final adjudication by the commission or such administrative tribunal of the violation underlying the seizure, such vehicle shall be deemed by the commission to be abandoned. Such vehicle shall be disposed of by the city pursuant to section twelve hundred twenty-four of the vehicle and traffic law; provided, however, that notwithstanding any inconsistent provision of section twelve hundred twenty-four of such law, if an owner seeks to reclaim such vehicle pursuant to section twelve hundred twenty-four of such law, such owner shall be deemed to have made a written demand for such vehicle and the commission shall take such action as may be authorized by subdivision e or f of this section.

§20. The administrative code of the city of New York is amended by adding thereto a new section 19-529.3 to read as follows:

§19-529.3 Forfeiture of commuter vans. a. In addition to the penalties, sanctions and remedies provided in this chapter or subdivisions six and seven of section one hundred forty-five of the transportation law, a vehicle seized pursuant to section 19-529.2 of this chapter, and all rights, title and interest therein, shall be subject to forfeiture to the city in accordance with the provisions of this section upon judicial determination thereof, if the owner of such vehicle has been found liable at least two times in an administrative or court proceeding for operating a commuter van or other such common carrier by or on behalf of a person who is not the holder of a current, valid authorization or operating a commuter van without a commuter van license as required by this chapter, both of which violations were committed within a five-year period.

b. A forfeiture action which is commenced pursuant to this section shall be commenced by filing of a summons with notice or a summons and complaint pursuant to the New York civil practice law and rules, and such summons with notice or summons and complaint shall be served pursuant to subdivision c of this section. A vehicle which is the subject of such an action shall remain in the custody of the city pending the final determination of the forfeiture action.

c. Service of a summons with notice or a summons and complaint shall be made:

(1) by personal service pursuant to the New York civil practice law and rules upon all owners of the vehicle listed in the records maintained by the New York State department of motor vehicles, or for vehicles not registered in New York state, in the records maintained by the state of registration;

(2) by first class mail upon all individuals who have notified the commission or an administrative tribunal thereof that they are an owner of the vehicle; and

(3) by first class mail upon all persons holding a security interest in such vehicle which security interest has been filed with the New York state department of motor vehicles pursuant to the provisions of title ten of the New York state vehicle and traffic law, at the address set forth in the records of the New York state department of motor vehicles, or, for vehicles not registered in New York state, all persons holding a security interest in such vehicle which security interest has been filed with such state of registration at the address provided by such state of registration.

d. Any owner who receives notice of the institution of a forfeiture action who claims an interest in the

vehicle subject to forfeiture shall assert a claim for the recovery of the vehicle or satisfaction of the owner's interest in such vehicle by intervening in the forfeiture action in accordance with the New York civil practice law and rules. Any person with a security interest in such vehicle who receives notice of the institution of the forfeiture action who claims an interest in such vehicle subject to forfeiture shall assert a claim for satisfaction of such person's security interest in such vehicle by intervening in the forfeiture action in accordance with the New York civil practice law and rules.

e. No vehicle shall be forfeited pursuant to this section, to the extent of the interest of a person who claims an interest in the vehicle, if such person shall plead and prove as an affirmative defense that:

(1) the use of the vehicle for the conduct that was the basis for the seizure occurred without the knowledge of such person, or, if such person had knowledge of such use, without the consent of such person, and that such person did not knowingly obtain such interest in the vehicle in order to avoid the forfeiture of such vehicle; or

(2) the conduct that was the basis for the seizure was committed by any person other than such person claiming an interest in the vehicle, while such vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

f. For purposes of subdivision e of this section, if such person claiming an interest in the vehicle had knowledge of the use of the vehicle for the conduct that was the basis for such seizure, such person shall be deemed to have consented to the unlawful conduct unless such person establishes that he or she did all that could reasonably have been done to prevent the use of the vehicle for such unlawful conduct.

g. The city, after judicial determination of forfeiture, shall, at its discretion, either:

(1) retain such vehicle for the official use of the city; or

(2) by public notice of at least twenty days, sell such forfeited vehicle at public sale. The net proceeds of any such sale shall be paid into the general fund of the city.

h. At any time within six months after the forfeiture, any person claiming an interest in a vehicle which has been forfeited pursuant to this section who was not sent notice of the commencement of the forfeiture action pursuant to subdivisions b or c of this section or who did not otherwise receive actual notice of the forfeiture action may assert, in an action commenced before the justice of the supreme court before whom the forfeiture action was held, such claim as could have been asserted in such forfeiture action pursuant to this section. The court may grant the relief sought upon such terms and conditions as it deems reasonable and just if such person claiming an interest in the vehicle establishes that he or she was not sent notice of the commencement of the forfeiture action and was without actual knowledge of the forfeiture action and establishes either of the affirmative defenses set forth in subdivision e of this section.

i. In any action commenced pursuant to subdivisions b or h of this section, where the court awards a sum of money to one or more persons in satisfaction of such person's or persons' interest or interests in the forfeited vehicle, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited vehicle, after deduction of the lawful expenses incurred by the city, including the reasonable costs of removal and storage of the vehicle between the time of seizure and the date of sale.

§21. The administrative code of the city of New York is amended by adding thereto a new section 19-

529.4 to read as follows:

§19-529.4 Color schemes and emblems and additional requirements for commuter vans. *a. Commuter vans shall have the name of the vehicle owner, the name of the person holding the authorization pursuant to which such vehicle is operating and evidence of such authorization displayed on the outside and inside of the vehicle in such form as shall be prescribed by the commission.*

b. Commuter vans may be painted any color approved by the commission, other than the colors reserved for medallion taxis.

c. 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 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.

§22. *The administrative code of the city of New York is amended by adding thereto two new sections 19-529.5 and 529.6 to read as follows:*

§19-529.5 Construction. *The provisions of this chapter authorizing penalties, sanctions and remedies shall not be construed to supersede the provisions of subdivisions six and seven of section one hundred forty-five of the transportation law but shall be construed to provide penalties, sanctions and remedies in addition to those provided in such subdivisions.*

§19-529.6 Applicability. *The provisions of this chapter shall not apply to the operations by a commuter van service of commuter vans to or from an airport in the city when such commuter van service or commuter vans have been issued a permit by the port authority of New York and New Jersey to operate at an airport in the city or apply for such permit and within a reasonable period of time are issued such permit by such authority.*

§23. *This local law shall take effect two hundred seventy days after its enactment into law, provided however, that:*

(1) any commuter van service that provides service through the use of one or more commuter vans as those terms are defined in section 19-502 of the administrative code of the city of New York as amended by section three of this local law, which commuter van service would be subject to the authorization and licensing requirements set forth in this local law, and who on the effective date of this local law holds a valid certificate of operating authority granted by the state department of transportation covering the operations of such commuter vans in the city of New York and is in compliance with such operating authority, may continue to operate in the city of New York in the geographic areas and upon the terms

and conditions set forth in such operating authority for a period of one year following the effective date of this local law, provided, however, that at the expiration of such one year period such person shall be required to comply with the provisions of this local law. The taxi and limousine commission shall provide for the conversion of such operating authority held by any such commuter van service into authorization and commuter van licenses issued pursuant to this local law in accordance with any agreement between the state department of transportation and the city of New York; and

(2) prior to such effective date the taxi and limousine commission may promulgate any rules necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.