

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1992**

No. 39

Introduced by Council Members Alter and Michels (by the request of the Mayor); also Council Members Maloney, McCaffrey, Dear and Freed. (Passed under a Message of Necessity from the Mayor.)

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to electronic or home appliance service dealers and to repeal sections 20-415 and 20-416 of such code relating to service dealer managers.

Be it enacted by the Council as follows:

Section 1. The title of subchapter 24 of chapter 2 of title 20 of the administrative code of the city of New York is amended to read as follows:

[TELEVISION, RADIO AND AUDIO EQUIPMENT
PHONOGRAPH SERVICE AND REPAIRS]

ELECTRONIC OR HOME APPLIANCE SERVICE DEALERS

§ 2. Section 20-410 of the administrative code of the city of New York is amended to read as follows:

§ 20-410 Legislative declaration. It is hereby declared that the business of servicing [television or radio receiving apparatus and audio equipment] *electronic or home appliances* has become the subject of great abuse. The public has been and is unprotected from unethical and financially unstable service dealers. The necessity for legislative intervention to protect the public and legitimate service dealers is hereby declared as a matter of legislative determination.

§ 3. Section 20-411 of such code is amended to read as follows:

§ 20-411 Definitions. Whenever used in this subchapter, the following terms shall mean:

1. "Person" means an individual, firm, partnership, trust, association or corporation.
2. "Complainant" means the customer of a service dealer who has complained concerning an alleged violation of this subchapter, any [regulation] *rule* promulgated pursuant thereto, or any practice engaged in by a service dealer or any of his or her employees.
3. "Service dealer" means a person who [engages in the business of servicing television or radio receiving apparatus and audio equipment within the city of New York, or solicits such business] within the city of New York:

a. advertises that he or she performs repair service on electronic or home appliances, or makes public statements reasonably calculated to lead an ordinary consumer to believe that he or she performs such repair service;

b. solicits or bills a customer for repair service on electronic or home appliances;

c. *sells service contracts or maintenance agreements for the performance of repair service on electronic or home appliances and accepts requests for such repair service under such service contracts or maintenance agreements;*

d. *accepts requests for repair service or receives electronic or home appliances for the performance of repair service; or*

e. *provides, as part of a sales transaction, repair service, including repair service performed by the seller, subcontractor, or other service repairer; provided, however, that the term "service dealer" shall apply to a manufacturer of electronic or home appliances only when such manufacturer acting as a retailer engages in any of the activities described in this subdivision.*

4. ["Service"] "Repair service" or "repair servicing" means the installation, maintenance, repair, replacement, testing, inspection or modification for compensation, other consideration or under a warranty, of [television or radio receiving apparatus and audio equipment] *electronic or home appliances.*

5. ["Receiving apparatus" means television or radio receiving apparatus.] "Electronic or home appliance" means any electronic device, or any appliance, that is commonly used in a household, including, but not limited to, televisions, radios, stereo systems, compact disc players, home computer systems, telephones, telephone answering machines, satellite dishes, cameras, calculators, video recorders or players, camcorders or other portable video recording devices, cassette recorders or players, facsimile machines, portable photocopiers, air conditioners, clothes washing machines, clothes dryers, dishwashers, food freezers, refrigerators, stoves, ranges, ovens, microwave ovens or sewing machines.

6. ["Audio equipment" means any apparatus or other equipment used for sound reproduction, other than television or radio receiving apparatus.] "Service repairer" means a person who performs repair service on electronic or home appliances.

§ 4. Subdivision 1 of section 20-412 of such code is amended to read as follows:

1. No person shall represent or hold himself or herself out to be [a licensed dealer], or engage in business as, a service dealer, unless duly licensed pursuant to this subchapter.

§ 5. Section 20-414 of such code is amended to read as follows:

§ 20-414 Fees. [1.] The [annual] *biennial* fee for a license or renewal thereof shall be [one hundred] *three hundred and forty* dollars.

[2. The fee for issuing a duplicate license or permit when the original has been lost, destroyed or mutilated shall be three dollars.]

§ 6. Sections 20-415 and 20-416 of such code are REPEALED.

§ 7. Section 20-419 of such code is amended to read as follows:

§ 20-419 License [or permit] denial; right to hearing. No license [or permit] may be denied for failure to meet any requirement established by this subchapter or by the commissioner without a hearing.

§ 8. Section 20-420 of such code is amended to read as follows:

§ 20-420 Issuance, renewal, revocation and suspension of license [or permit]; fines. In addition to any powers of the commissioner, and not in limitation thereof, a license [or permit] required pursuant to this subchapter may be suspended or revoked or issuance or renewal thereof denied by the commissioner, and the licensee [or permittee] may be fined pursuant to subdivision e of section 20-104 of chapter one of this title, upon a determination made by the commissioner or the commissioner's designee after due notice and hearing, that an applicant or a licensee [or permittee], any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation:

(a) has practiced fraud or misrepresentation upon a customer;

(b) has practiced fraud or misrepresentation in establishing his or her qualifications for a license [or permit] under this subchapter;

(c) has aided or abetted another in practicing fraud or misrepresentation upon a customer or in establishing qualifications for a license [or permit] under this subchapter;

(d) has engaged in or has aided or abetted another in engaging in untrue, misleading or deceptive advertising, or unlawful selling practices as defined by the laws of this state, municipality or other local governmental unit within which such advertising or practices occurred;

(e) is incompetent or untrustworthy and is thereby unfit to discharge the responsibilities of a licensee [or permittee];

(f) has failed upon request to render to the customer an itemized bill, in writing, containing such details as may be required by the [regulations] *rules* of the department;

(g) has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license [or permit];

(h) has violated any of the provisions of this title, subchapter or the [regulations] *rules* promulgated thereunder, or has knowingly caused, permitted, aided or abetted another in committing such violation[;];

(i) has failed to comply with any order, demand, regulation or requirement made by the commissioner pursuant to the provisions of this subchapter].

§ 9. Section 20-421 of such code is amended to read as follows:

§ 20-421 Informal adjustment of complaints. 1. The commissioner shall receive complaints from the public against any person issued a license [or permit] pursuant to this subchapter.

2. The commissioner shall make a summary investigation of the facts.

3. After investigation, the commissioner may advise the licensee [or permittee] of the contents of the complaint and may recommend measures that would compensate the complainant for any damages suffered as a result of the conduct of the licensee [or permittee] or make recommendations which otherwise may reasonably dispose of the complaint. If the licensee [or permittee] accepts the commissioner's recommendations and performs accordingly, such fact shall be given due consideration in any subsequent disciplinary proceedings instituted by the commissioner. If the licensee [or permittee] declines to accept the recommendations of the commissioner and to perform accordingly, the commissioner may investigate further or may institute a departmental hearing with respect to the complaint, and may thereafter require the licensee [or permittee] to make proper restitution to the complainant and may also take such disciplinary action as provided in this [section] *subchapter*.

4. If the licensee accepts the recommendations of the commissioner and is willing to perform accordingly, but the complainant refuses to accept such recommendations, the commissioner shall not be required to take further action with respect to the complaint.

§ 10. Subdivision 3 of section 20-422 of such code is amended to read as follows:

3. The commissioner [shall] *may* establish and properly equip [a television, radio receiving apparatus and audio equipment electronic] *an electronic or home appliance* laboratory for the purpose of testing the competence and integrity of licensed service dealers, whenever complaints against such licensees would indicate the necessity or advisability for such testing, and such laboratory may be further used in the necessary investigations that may be

conducted by the commissioner in connection with the proper administration and enforcement of the provisions of this subchapter and the [regulations] *rules* adopted thereunder.

§ 11. Subdivision 2 of section 20-424 of such code is amended to read as follows:

2. any school, public or private, offering as part of a vocational education program, courses and training in [the installation, maintenance, repair, replacement, testing, inspection and modification of television, radio receiving apparatus or audio equipment] *repair service* and the instructors and teachers thereof; provided the exclusion granted herein shall be applicable only to [the] *repair service* [of television, radio receiving apparatus or audio equipment] rendered in and as part of a regularly constituted vocational education program and when such *repair service* is not offered to the public for compensation or other consideration.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 1, 1992, and approved by the Mayor on June 17, 1992.

RAYMOND TEATUM, First Deputy and Acting City Clerk

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 39 of 1992, Council Int. No. 16-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 1, 1992: 47 for, 4 against.

Was approved by the Mayor on June 17, 1992.

Was returned to the City Clerk on June 17, 1992.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel