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THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT OF THE GOVERNMENTAL AFFAIRS DIVISION

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COMMITTEE ON GOVERNMENTAL OPERATIONS

Hon. Fernando Cabrera, Chair

January 21, 2020

Proposed Int. 991-C

By Council Members Cabrera, Yeger, Holden and Louis

Title:

A Local Law to amend the administrative code of the city of New York, in relation to the office of administrative trials and hearings dismissing taxi and limousine commission-related violations pertaining to vehicle lights upon proof of correction

Administrative Code:

Adds new section 19-554

I. INTRODUCTION

On January 21, 2020, the Committee on Governmental Operations, chaired by Council Member Fernando Cabrera, will hold a second hearing and vote on Int. 991-C, in relation to the office of administrative trials and hearings dismissing taxi and limousine commission-related violations pertaining to vehicle lights upon proof of correction, sponsored by Council Member Cabrera. The Committee first heard a prior version of Int. 991-C on January 31, 2019.

II. BACKGROUND

a. The Taxi and Limousine Commission

Established in 1971, New York City's Taxi and Limousine Commission ('TLC') was created to license and regulate the City's yellow medallion taxicabs, street hail liveries (boro or green taxis), for-hire vehicles (app-based services, liveries, black cars and luxury limousines) ("FHV's"), commuter vans, paratransit vehicles and wheelchair accessible vehicles.¹ More than 200,000 TLC licensees complete approximately 1,000,000 trips each day.² The TLC conducted 126,275 safety and emissions inspections at its Woodside, Queens inspection facility in fiscal year 2019, according to the 2019 Mayor's Management Report.³ In addition to an unpaid board of nine members, the TLC has 600 employees.⁴

¹ See New York City Taxi & Limousine Commission, About TLC, <https://www1.nyc.gov/site/tlc/about/about-tlc.page> (last accessed Nov. 29, 2019). See also generally New York City Taxi & Limousine Commission Fact Book 2018 at 3, available at https://www1.nyc.gov/assets/tlc/downloads/pdf/2018_tlc_factbook.pdf.

² About TLC, *supra* note 1.

³ Mayor's Office of Operations, Mayor's Management Report (Sept. 2019) at 148, available at https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2019/2019_mmr.pdf.

⁴ See About TLC, *supra* note 1.

TLC has more than 170 officers who issue summonses to licensees.⁵ The violations that TLC enforces range from compliance with generally applicable traffic laws, such as speeding or failure to yield,⁶ to more TLC-specific violations. TLC-specific violations include relatively minor rules, such as vehicle cleanliness and proper display of a license, as well as service refusals or illegal pick-ups.⁷ Since 2011, the adjudication of TLC violations has been the responsibility of the Office of Administrative Trials and Hearings ('OATH').⁸

b. Vehicle light violations

Section 80-22(b) of title 35 of the Rules of the City of New York states that TLC-regulated drivers “must not operate a Vehicle without continuing personal inspection and reasonable determination that all equipment, including brakes, tires, lights, signals and passenger seatbelts and shoulder belts, is in good working order.”⁹ This subdivision also sets forth the related civil fines: \$50 if a driver pleads guilty before a hearing and \$75 if a driver is found guilty following a hearing.¹⁰ There is currently no cure provision in rule or law for such violations. By comparison, New York State Vehicle and Traffic Law section 376-a lays out a process by which a summons may be dismissed without penalty if certain vehicular equipment violations, such as for a defect with a vehicle’s lights, are proven to have been repaired within a short period of time after receipt of the summons.¹¹

⁵ Vision Zero, TLC Enforcement, <http://www.nyc.gov/html/visionzero/pages/initiatives/tlc-enforcement.shtml> (last accessed Nov. 29, 2019).

⁶ *See id.*

⁷ Relevant TLC rules and local laws may be found at <https://www1.nyc.gov/site/tlc/about/tlc-rules.page>.

⁸ *See* Executive Order 148 of 2011. Pursuant to EO 148 of 2011, OATH issued proposed rules applicable to the TLC violations in 2013, available at <http://rules.cityofnewyork.us/content/oath-taxi-and-limousine-tribunal-rules-0>. *See generally* 48 RCNY § 5-01 *et seq.* (OATH’s current rules applicable to violations enforced by the TLC).

⁹ 35 RCNY § 80-22(b).

¹⁰ *Id.*

¹¹ N.Y. State Vehicle and Traffic Law § 376-a.

III. LEGISLATIVE ANALYSIS

Proposed Int. 991-C

Proposed Int. 991-C would authorize OATH to dismiss a violation enforced by TLC pertaining to a defective vehicle light so long as two conditions are met: the driver or owner must have fixed the light no later than one day after being issued a violation, and the driver must provide proof of correction, such as a statement of correction issued by a state inspection authority or auto repair shop, along with the TLC summons, to the TLC. Once the TLC, upon inspection of proof, determines that the driver or owner corrected the light, it would then recommend that OATH dismiss the violation.

Several technical edits were made to Proposed Int. 991-C since initial introduction. Among such edits, rather than creating a new Chapter 9 to Title 19 of the Administrative Code, Proposed Int. 991-C would relocate the bill's provisions to the existing Chapter 5 of Title 19, creating a new section 19-554. Edits were additionally made to the bill's definitions, deleting the terms "commission" and "driver," which are already defined in Chapter 5; deleting superfluous language in the definition of OATH tribunal; replacing an enumerated list of holidays for purposes of defining "business day" with a cross-reference to a State General Construction Law provision which already lists such holidays; defining state inspection stations by reference to the State Vehicle and Traffic Law; and defining "fleet" by reference to TLC rule. Additional language clarifies that proof of correction must be provided to the TLC on or before the date of the TLC summons. Language requiring that an affirmation that the correction was made, under penalty of perjury, is relocated in the bill, and superfluous language tracking Vehicle and Traffic Law section 376-a is deleted.

Proposed Int. No. 991-C

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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 19-554 to read as follows:

§ 19-554 Dismissal of vehicle lights violation upon proof of correction. a. Definitions.

For purposes of this section, the following terms have the following meanings:

Business day. The term “business day” means any calendar day, as such term is defined in section 19 of the general construction law, except Saturday, Sunday or a public holiday, as such term is defined in section 24 of the general construction law.

OATH. The term “OATH” means the office of administrative trials and hearings.

State. The term “state” means the state of New York.

Summons. The term “summons” means a document, including a notice of violation, issued by any agency authorized to issue notices of violation returnable to the tribunal that specifies the charges forming the basis of an adjudicatory proceeding before the tribunal.

Tribunal. The term “tribunal” means the OATH hearings division.

b. The tribunal shall dismiss a violation issued to a driver or an owner of a vehicle for failing to personally inspect and reasonably determine the good working order of the lights of such vehicle pursuant to subdivision b of section 80-22 of title 35 of the rules of the city of New York or any successor provision when: (i) such driver or owner corrects such violation not later than one-half hour after sunset on the first full business day after the date of the violation as

specified on the summons, (ii) such driver or owner provides to the commission, on or before the return date of such summons, a copy of such summons, any of the forms of proof of such correction listed in subdivision c of this section and an affirmation under penalty of perjury that such correction was made and (iii) the commission, upon inspection of such proof of correction, determines that such driver or owner corrected the violation and recommends that the tribunal dismiss the violation. Should the commission not recommend dismissal of such violation, such driver or owner may provide any of the forms of proof of correction described in subdivision c of this section at a hearing of the tribunal.

c. The following constitute proof of correction pursuant to subdivision b of this section:

1. A statement of correction from an official inspection station licensed pursuant to section 303 of the vehicle and traffic law, duly executed by the person who made such correction and bearing the facility number of the official inspection station;

2. A statement of correction from an automobile repair shop on its letterhead, duly executed by the person who made such correction;

3. A statement of correction from a person administering a fleet, as such term is defined in section 51-03 of title 35 of the rules of the city of New York or any successor provision, duly executed by the person who made such correction and countersigned by the fleet maintenance supervisor;

4. A signed statement of any police officer that the necessary correction has been made;

or

5. Evidence acceptable to the commission from any person that such person made the correction together with proof of purchase of any equipment needed to make such correction.

§ 2. This local law takes effect 180 days after it becomes law, except that the office of administrative trials and hearings and the New York city taxi and limousine commission shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

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