

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1997**

**No. 94**

Introduced by Council Members Koslowitz and Dear (in conjunction with the Mayor).

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to the towing of vehicles and the removal of accident vehicles.**

*Be it enacted by the Council as follows:*

Section 1. Section 19-169.1 of the administrative code of the city of New York, is amended by adding two new subdivisions l and m to read as follows:

*l. Authorized officers and employees of the department and the department of consumer affairs and members of the police department shall have the power to enforce the provisions of this section and any rules promulgated hereunder.*

*m. The commissioner of consumer affairs is authorized to promulgate such rules as the commissioner deems necessary to effectuate the provisions of this section.*

§ 2. Subdivisions b and d of section 20-515 of the administrative code of the city of New York, subdivision b as amended by local law number 58 for the year 1996, are amended to read as follows:

b. *soliciting or offering any inducements or making representations at the scene of a vehicular accident for the towing of any vehicle involved in an accident or for the performance of any repairs on any vehicle involved in an accident except as may be reasonable and necessary at the scene of an accident for the towing of an accident vehicle on a segment of the arterial highways by an arterial tow permittee who has been authorized by the commissioner of transportation or the police commissioner to provide tow service on such segment[, or except as is reasonable and necessary at the scene of an accident by a towing company which has been authorized to tow in a special accident response district during a specified time period pursuant to section 20-518.1 of this subchapter].*

d. *at the scene of a vehicular accident [where towing of any vehicle involved in such accident is required], making an estimate of the cost of repairs, offering to make such an estimate, or offering to make repairs, or providing any inducement, discount, reward, or other thing of value to encourage, urge or steer any person to have such accident vehicle towed to a repair facility or to have such accident vehicle repaired at a particular repair facility.*

§ 3. Paragraph 3 of subdivision a of section 20-518 of the administrative code of the city of New York, as amended by local law number 7 for the year 1993, is amended to read as follows:

3. The commissioner shall set forth by rules such criteria for participation in the program as he or she deems necessary to effectuate the purposes of this section. Such criteria shall include but not be limited to, possession of a valid, current license to engage in towing and compliance with this subchapter and any rules promulgated thereunder, ability to respond within a specified period of time to police department calls for towing, ability to make service available on a twenty-four hour basis or on such limited basis as the commissioner shall prescribe, maintenance of specified business hours for redemption of vehicles and maintenance of a specified minimum number of tow trucks and other equipment appropriate for towing, *including at least one flat-bed truck suitable for removing accident vehicles*. All participants in the program shall maintain a business premises that is under the exclusive control of the participant, is not used by any other towing company and is the premises listed on such participant's license to engage in towing. Such premises shall consist of a location that is open to the public, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched, and where all records required by this subchapter or any rules promulgated thereunder are maintained.

§ 4. Paragraph 4 of subdivision a of section 20-518 of the administrative code of the city of New York, as amended by local law number 10 for the year 1993, is amended to read as follows:

4. [On or after March first, nineteen hundred ninety-three, all] *All* persons approved by the commissioner for participation in the directed accident response program, in addition to meeting the requirements of paragraph three of this subdivision and any rule promulgated pursuant to this section, shall (i) have been licensed pursuant to this subchapter for a period of not less than one year; (ii) have not had such license revoked after due notice and opportunity to be heard at any time during the preceding two year period; and (iii) possess a satisfactory record with regard to the operation of a towing business as determined by the commissioner, provided that a determination that such record with regard to the operation of a towing business is unsatisfactory shall be based upon violations of this subchapter.

§ 5. Paragraph 2 of subdivision b of section 20-518 of the administrative code of the city of New York, as amended by local law number 112 for the year 1993, is amended to read as follows:

2. No tow truck operator shall travel en route to, or respond to, the scene *or the reported scene* of a vehicular accident, or remove a vehicle therefrom, unless a specific request for the services of such tow truck operator has been received by such operator or the towing company which employs such operator from a person in charge of a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, or unless such tow truck operator has been directed to do so by the police department.

§ 6. Paragraph 3 of subdivision b of section 20-518 of the administrative code of the city of New York, as renumbered and amended by local law number 112 for the year 1993, is amended to read as follows:

3. No tow truck of the towing company participating in the directed accident response program shall fail to or refuse to remove a vehicle that has been involved in a vehicular accident and which cannot be safely driven under its own power when such company has been directed to do so by the police department. Such vehicle shall be

towed to the storage facility of such responding company which meets such specifications as the commissioner shall establish by rule, or to a location *within the city* designated by the person in charge of such vehicle, provided, however, that [such location is within the zone in which the vehicular accident occurred or in a zone directly adjacent thereto and] placement of such vehicle in such location is not in violation of any other law. A vehicle towed to a storage facility shall at all times be stored within such storage facility while the vehicle is in the custody of the towing company. Such storage facility shall be the premises listed on the license of the towing company responding to the police department's direction to remove a vehicle or the premises approved by the commissioner for use by such towing company. Such premises shall be owned, operated or controlled by such towing company and shall not be used by any other towing company. Nothing in this section shall be construed to preclude a person in charge of a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, from arranging for the removal of such vehicle by a tow operator of such person's choice.

§ 7. Subdivision b of section 20-518 of the administrative code of the city of New York is amended by adding two new paragraphs 4 and 5 to read as follows:

*4. Notwithstanding any other provision of this subchapter, a towing company that removes an accident vehicle to its storage facility at the place of business which qualifies such company for participation in the directed accident response program or to its auxiliary storage facilities approved by the commissioner, shall not charge for the towing of such vehicle and the first day of storage for such vehicle a fee exceeding sixty-five dollars. Such sixty-five dollar fee shall be inclusive of all charges for the removing and towing of such vehicle to such storage facility and for the first day of storage.*

*5. If a person in charge of the vehicle, other than a police officer, requests that an accident vehicle be towed to any location other than the storage facilities at the place of business which qualified the towing company removing the vehicle for participation in the directed accident response program or to its auxiliary storage facilities approved by the commissioner, the towing company may also, in addition to the charges authorized under paragraph four of this subdivision, charge the mileage fee for additional mileage that is authorized under section 20-509 of this subchapter, for the distance traveled from the accident scene to the location where the vehicle is towed; provided, however, that such distance shall be measured on a route available for commercial vehicles from the accident scene to the location to which such vehicle is towed.*

§ 8. Section 20-518 of the administrative code of the city of New York is amended by adding two new subdivisions c-1 and g-1 to read as follows:

*c-1. Every towing company approved to participate in the directed accident response program shall:*

*(1) have on its premises, and accessible to the public, a telephone and bathroom facilities;*

*(2) provide reasonable access to an accident vehicle during the hours the towing company is required to be open for the redemption of vehicles, at no charge, to the owner or other person in charge of such vehicle, to any insurance agent or insurance adjuster representing the owner of such vehicle, or to any insurance agent or insurance adjuster who furnishes sufficient written proof confirming that he or she is in fact representing any other person having a claim or defense arising from an accident involving such vehicle;*

(3) (a) impose no storage charge exceeding the amount permitted pursuant to section 20-509 of this subchapter during any period before the owner or other person in charge of an accident vehicle has signed an authorization for the repair of such accident vehicle with the repair shop that the towing company has registered pursuant to article twelve-A of the vehicle and traffic law, and (b) where such towing company is registered as a repair shop pursuant to article twelve-A of the vehicle and traffic law, impose no storage charge during the period from which the owner or other person in charge of the accident vehicle has authorized repairs by such registered repair shop to one business day after such registered repair shop has notified such owner or other such person in charge of such vehicle to pick up the repaired vehicle. For purposes of determining whether a towing company has violated subparagraphs (a) or (b) of this paragraph, such towing company shall be deemed to have committed the violation of another entity if such towing company and such other entity share a common officer, director, partner, member, manager, principal or shareholder owning five or more percent of the outstanding stock, such towing company has any direct or indirect interest in such other entity, or such towing company and such other entity share any facilities, equipment, or employees.

(4) provide to each owner or other person in charge of the accident vehicle an informational flyer entitled the "consumer bill of rights regarding towing of accident vehicles and repair shops" setting forth the information that the commissioner deems appropriate about the laws relating to the consumer's rights with respect to the towing and repairing of vehicles. Such bill of rights shall be provided to the owner or other person in charge of the accident vehicle before such vehicle is towed from the accident scene; provided, however, that if the owner or other person in charge of such vehicle is injured and is to be removed to a hospital, such bill of rights shall be furnished by the towing company at the time such owner or such other person in charge of such vehicle first appears at the premises of such towing company.

g-1. 1. After due notice and opportunity to be heard, the commissioner may remove or suspend, for a period not to exceed one year, from continued participation in the directed accident response program any towing company participating in such program which:

(a) was unavailable to respond to a police dispatch or has failed to respond to a police dispatch for removing a vehicle from the scene of an accident on at least three occasions within any six month period;

(b) failed to provide to any person the informational flyer entitled "consumer bill of rights regarding towing of accident vehicles and repair shops" as required pursuant to paragraph four of subdivision c-1 of this section; or

(c) failed to or refused to release any accident vehicle after presentation of sufficient proof of ownership or owner's written authorization, and upon tender of payment of authorized charges in cash or by major credit card as such credit card payment is provided for in section 20-520.1 of this subchapter and any rules promulgated thereunder.

2. The grounds for suspension or removal of a towing company from continued participation in the directed accident response program specified in paragraph one of this subdivision shall be in addition to, and shall not in any way limit, the commissioner's authority to revoke, suspend, or refuse to renew a license issued pursuant to this

*subchapter or to suspend or remove from participation any towing company from the directed accident response program pursuant to any other provisions of this subchapter and any rules promulgated thereunder.*

§ 9. Section 28 of local law number 112 for the year 1993, as amended by section one of local law number 20 for the year 1997, is amended to read as follows:

§ 28. This local law shall take effect one hundred and twenty days after it shall have been enacted into law, provided, however, that sections six, [ten,] thirteen, fifteen, [seventeen,] twenty, twenty-one and twenty-four shall expire and shall be of no further force and effect on December 31, 1997, and, provided further, that the commissioner of consumer affairs may promulgate any necessary rules and take any actions necessary for the timely implementation of this local law prior to such effective date.

§ 10. If any clause, sentence, paragraph, section or part of the administrative code of the city of New York added by this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly invoked in the controversy in which such judgment shall have been rendered.

§ 11. Section nine of this local law shall take effect immediately and shall be retroactive to and shall be deemed to have been in full force and effect on December 31, 1997. Sections one, two, five, six and seven of this local law shall take effect immediately. Sections three, four and eight of this local law shall take effect six months after the date of enactment of this local law, provided, however, that persons who have been approved by the commissioner of the department of consumer affairs for participation in the directed accident response program on or before the effective date of this local law shall certify to such commissioner that they meet the requirements imposed by sections three, four and eight of this local law on or before the effective date of such sections, and provided, further, that such commissioner may promulgate any necessary rules and take any other actions necessary for the timely implementation of this local law prior to such effective date. It is further provided that if a person who has been approved by the commissioner of the department of consumer affairs for participation in the directed accident response program on or before the effective date of this local law fails to certify that he or she meets the requirements imposed by sections three, four and eight of this local law on or before the effective date of such sections, such person shall be removed from continued participation in such program unless and until such person reapplies and is determined to meet the requirements in effect at the time of such application for participation in the directed accident response program. Nothing in this local law shall affect the expiration of sections six, thirteen, fifteen, twenty, twenty-one and twenty-four of local law number 112 for the year 1993 as provided for in section nine of this local law.

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 December 17, 1997, and approved by the Mayor on December 30, 1997.

CARLOS CUEVAS, City Clerk, Clerk of the Council

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 94 of 1997, Council Int. No. 1074-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on December 17, 1997: 44 FOR, 3 AGAINST, 1 NOT VOTING.

Was returned unsigned by the Mayor on December 31, 1997.

Was returned to the City Clerk on December 31, 1997.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel