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THE COUNCIL

REPORT OF THE GOVERNMENTAL AFFAIRS DIVISION

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COMMITTEE ON CONSUMER AFFAIRS

Daniel R. Garodnick, Chair

November 26, 2012

Proposed Int. No. 597-A:

By Council Members Garodnick, James, Koppell, Mendez, Williams, Comrie, Koslowitz, Dromm, Rodriguez and Lappin

TITLE:

A Local Law to amend the administrative code of the City of New York, in relation to pedicab fares and receipts.

I. INTRODUCTION

On Monday, November 26, 2012, the Consumer Affairs Committee, chaired by Council Member Daniel R. Garodnick, will vote on Proposed Introductory Bill Number 597-A (“Proposed Int. No. 597-A”), a Local Law to amend the administrative code of the city of New York, in relation to pedicab fares and receipts. The Committee previously held a hearing on a version of Proposed Int. No. 597-A on October 18, 2012, at which time it heard from the Department of Consumer Affairs and members of the pedicab industry. During the hearing, the parties made proposed several changes to the bill, some of which have been incorporated into the version being voted on today.

II. BACKGROUND

a. New York City’s Pedicab Industry

As the pedicab industry developed during the last decade from a novel trend into a full industry, New York City experienced a marked increase in the number of these vehicles operating on the streets. Pedicabs are now a common mode of for-hire transportation for residents and tourists. Today, pedicabs are ubiquitous in midtown Manhattan, the Broadway theater district and the Central Park area.¹

Pedicabs are often described as “bicycle” or “tricycle” taxis.² The pedicab vehicle itself is manufactured in various incarnations, but the most common version is the “three-wheeled bicycle,” in which the operator sits ahead of the main cabin atop a specifically designed seat. A set of handlebars attached to the front tire is steered by the operator’s hands. The operator’s feet rest upon pedals that are connected by a chain to the vehicle’s rear axle. The vehicle’s rear cabin

¹ See Carl Skutsch, “Keep the Big Wheels Turning,” New York Times (December 18, 2005).

² See Adam Gopnik, “Comment: Social Mobility,” The New Yorker (July 26, 2004).

is typically set over the rear axle, allowing a wide passenger compartment. The operator moves, stops, and directs the vehicle, as he or she would control a bicycle. Pedicabs typically cost approximately \$4,000 per vehicle.³ The fares are not uniform throughout the industry, but are generally based on either the length of the trip or its duration.

Like taxi drivers, pedicab operators roam the streets, most often in Midtown Manhattan, in search of customers willing to pay for their services. Because of the pedicab's relatively small size and quick maneuverability, these vehicles may weave through the congested streets of Manhattan. Environmentally conscious travelers appreciate that the pedicab operates without fuel and emits no hazardous exhaust fumes.⁴

b. Local Law 19 of 2007

In 2007, the Council passed Introductory Bill No. 331-A, a Local Law in relation to regulation and licensing of pedicabs. Key features of the legislation were: (i) a licensing scheme and insurance requirements for all pedicab businesses and drivers; (ii) a cap of 325 pedicabs that could be operated in the city at any one time that would sunset two years after the law's effective date; (iii) no more than 30 pedicabs could be owned or operated by any one business owner; (iv) a requirement that each pedicab conspicuously post the method by which the fare would be calculated; and (v) a ban on pedicabs operated by anything other than human power. The law also required each pedicab to conform to certain safety standards, including: (i) seating for no more than three passengers; (ii) brakes impervious to rain or wet conditions; (iii) headlights, tail lights, and turn lights; and (iv) seat belts for each passenger. Furthermore, all pedicabs were to be inspected by DCA annually and were required to display a DCA-issued

³ See Lisa Carucci, "One Man's Love of Biking Leads to A New Staple of NY Transportation," [NYU Livewire](#) (November 23, 2004).

⁴ Department of Consumer Affairs, "Report to the New York City Council Authorized by LL 19 of 2007," February 15, 2011.

license plate.

In March 2007, the Mayor vetoed the bill, citing his belief that the free market should determine the number of pedicabs on the street. The following month, the City Council overrode the Mayor's veto and the bill became Local Law 19 of 2007.⁵ After it was enacted in April 2007, DCA promulgated rules to effectuate the distribution of pedicab business licenses and registration plates. The New York City Pedicab Owners' Association sued DCA in September 2007, claiming the promulgated rules were inconsistent with the language and intent of Local Law 19. The New York State Supreme Court immediately stayed the implementation of the law and any regulations adopted thereunder. Subsequently, the Court entered a judgment in January 2008 declaring the regulations invalid and ordering DCA to revise the regulations to conform to the intent of the local law. DCA appealed the ruling to the First Department, which upheld the lower court ruling in April of 2009. As a result of the First Department's ruling, and the amount of time that elapsed between Local Law 19's enactment and the First Department decision, the Council revisited the issue in 2009.

c. Local Law 53 of 2009

In 2009, the Council passed Proposed Introductory Bill No. 1031-A ("Proposed Int. No. 1031-A"), a Local Law in relation to licensing of pedicabs. Proposed Int. No. 1031-A created a sixty day window of time during which pedicab owners could apply to DCA for pedicab registration plates, at the conclusion of which no new registration plates would be issued. It also required applicants for the registration plates to have a valid pedicab business license in order to obtain such plates, and to affix a registration plate to each pedicab in his or her possession. Although after the sixty day window closed registration plates would no longer be issued, an individual could still apply for a pedicab business or driver's license. Moreover, Proposed Int.

⁵ Hicks, J., "Pedicab Limit Withstands Mayor's Veto," *N.Y. Times*, April 24, 2007, at 3.

No. 1031-A contained a provision that would re-open the window on issuing registration plates eighteen months after the sixtieth day of the original application period.

The bill also contained provisions requiring safety inspections and insurance as a condition of licensure, and imposed additional safety requirements on the pedicab industry, including a mandate that business owners provide training for all pedicab drivers, a prohibition on pedicab operation in public plazas, and penalties for any driver who operated a pedicab with a suspended or revoked motor vehicle license or while intoxicated. The bill held pedicab business owners jointly liable for all pedicab driver actions and allowed the commissioner to suspend or revoke an owner's business license based on a determination that the number and/or type of violations issued to drivers of his or her pedicab(s) presented a threat to public safety. Proposed Int. No.1031-A also mandated that a pedicab business license be suspended for one month if a pedicab owned by such business was found to be operating without proper registration and revoked for up to one year if any pedicabs owned by the business were found to be operating without registration three times within twelve months.

The Mayor signed Proposed Intro. 1031-A into law on August 13, 2009 and the bill became Local Law 53 of 2009. During that sixty-day window, DCA issued 889 pedicab registration plates and licensed 172 pedicab businesses.

d. 2011 Pedicab Bills

In April 2011, the Council passed three bills related to pedicabs: Proposed Introductory Bill No. 334-A ("Local Law 31 of 2011"), a Local Law to amend the administrative code of the city of New York, in relation to requiring pedicabs to be subject to parking rules; Proposed Introductory Bill No. 466-A ("Local Law 33 of 2011"), a Local Law to amend the administrative code of the city of New York, in relation to seizing pedicabs and suspending and/or revoking

pedicab registration plates and drivers' licenses for certain violations; and Introductory Bill No. 467 ("Local Law 34 of 2011"), a Local Law to amend the administrative code of the city of New York, in relation to the permitted number of pedicab registration plates.

Local Law 31 of 2011 redefined the term "pedicab" for the purposes of the administrative code and subjected pedicabs to certain local parking rules as they apply to motor vehicles. Specifically, the law prohibits pedicabs from parking, standing or stopping in the zones throughout the city where such activities are prohibited for motor vehicles. The law does not subject pedicabs to meter parking requirements.

Local Law 33 of 2011 permits the seizure of any pedicab without a registration plate properly affixed in accordance with section 20-255 of the administrative code. Further, it requires that a pedicab driver's license be revoked if a driver operates a pedicab without a motor vehicle driver's license or with a revoked or suspended New York State motor vehicle driver's license, on two occasions within one year. Also, Local Law 33 requires the suspension for at least one year of the pedicab registration plate of any pedicab that accumulates three or more equipment violations relating to seat belts or brakes in one year. Such pedicab is required to be out of operation for that suspension period.

Local Law 34 of 2011 continued the Local law 53 cap on pedicab registration plates, which was set to expire on May 21, 2011. Since there were 850 registered pedicabs at the time Proposed Int. No. 467-A was drafted, the legislation amended the administrative code to prevent the number of registered pedicabs from exceeding that number. Further, Local Law 34 requires the DCA commissioner to conduct an annual review of pedicab registration plates and promulgate rules for issuing new registration plates if the number of plates drops below 840.

e. Current Statistics on Pedicabs in New York City

On February 15, 2011, as required by Local Law 19 of 2007, DCA published a report detailing “the number of pedicab businesses licenses issued, the number of pedicabs registered, the number of pedicab driver licenses issued, the number of applications for pedicab business and pedicab driver licenses received by DCA, the number of pedicab business and pedicab driver applicants on a waiting list, if any and the number of traffic accidents involving pedicabs.”⁶ The report disclosed that in 2009, DCA received 181 pedicab business applications, issued 172 pedicab business licenses and registered 889 pedicabs.⁷ The following year, during the renewal period, DCA received approximately 203 pedicab business applications, issued 163 pedicab business licenses and registered 850 pedicabs.⁸ The decrease in business licenses issued and pedicabs registered between 2009 and 2010 can be attributed to the failure of some pedicab businesses to renew their licenses during the renewal period and, in one case, to the revocation of the company’s pedicab business license.⁹ Since 2009, DCA has received 1,811 pedicab driver applications and issued 1,528 pedicab driver licenses.¹⁰ There is currently no waiting list for pedicab registration plates.

The report also detailed two accidents involving pedicabs that were reported to DCA. The first, which took place in July 2010, involved an encounter with a vehicle that resulted in \$1,556.93 in damages.¹¹ The second took place in September 2010 and involved an accidental collision between a vehicle stopped at a red light and a pedicab that hit the car’s rear bumper after sliding on wet pavement.¹² The report did not disclose the extent of the damages, but

⁶*Supra* note 4, at 2.

⁷*Id.*, at 2-3.

⁸*Id.*

⁹*Id.*

¹⁰*Id.*

¹¹*Id.*, at 4.

¹²*Id.*

mentioned that there were no injuries and that the pedicab company reimbursed the owner of the vehicle for the damage to the car.¹³

f. Pedicabs in the news

In August 2012, a pedicab driver in New York City licensed by the Department of Consumer Affairs charged four tourists from Texas \$442.54 for a 12-minute ride.¹⁴ Although the driver advertised the rate as being one dollar per block, he did not disclose that he also charges at least \$100 per passenger, a fact that was disclosed in small font on a sign affixed to the exterior of the pedicab.¹⁵ In addition to the \$406 the driver charged for the fare, he also added \$36.54 in sales tax and asked his passengers for a tip.¹⁶ Unfortunately for the tourists, the \$442.54 pedicab fare was technically legal, since local law allows pedicab drivers to charge whatever they want as long as they disclose the fare details on a sign on the exterior of the pedicab.¹⁷

III. PROPOSED INT. NO. INTRODUCTORY BILL

IV. Proposed Introductory Bill Number 597-A (“Proposed Int. No. 597-A”)

Proposed Int. No. 597-A would amend the administrative code in relation to pedicabs in three ways. First, it would require that all pedicab rates be based on time calculated per minute per ride, and that all pedicabs be equipped with a timer in clear view of passengers. Specifically, Proposed Int. 597-A would prohibit drivers from charging any fees unrelated to the duration of the pedicab ride, including added fees for additional passengers, and would require that: (i) rates be based solely on the timer affixed to the pedicab; (ii) each minute be charged at the same rate;

¹³ *Id.*

¹⁴ Fermino, J., “Pedicab driver ‘tricks’ tourists for \$442: riders,” *NY Post*, August 6, 2012.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Oppenheim, S., “Pedicab Driver Scammed Tourists \$400 for 10 Minute Ride: Report,” *WPIX News*, August 6, 2012.

and (iii) the timer be started when the pedicab ride commences and stopped when the pedicab reaches the passengers' destination.

Second, Proposed Int. No. 597-A would require that there be a sign on both sides of the exterior of the pedicab indicating, in a font of no less than two inches high the dollar amount to be charged per minute per ride and in letters at least one half of one inch high that (i) there are no additional fees; and (iii) drivers shall give passengers a pedicab information card. Another sign would be affixed to the rear of the bike seat on the pedicab that indicates in a font of no less than two inches high the dollar amount to be charged per minute per ride. Proposed 597-A would make it unlawful to charge more than the rate displayed on the exterior of the pedicab.

Lastly, Proposed Int. No. 597-A would require DCA to create a "Pedicab Information Card." The card would state in substance: (i) all pedicabs shall display a posting disclosing the price to be charged per minute per ride on the exterior of the pedicab and on the rear of the bike seat; (ii) drivers are not permitted to charge tax; (iii) gratuity is not required; (iv) passengers may call 311 if they have a complaint regarding a pedicab driver or business; and (v) such additional information as required by the commissioner. Each card would include an area where pedicab drivers would be required to insert: (i) his or her name and pedicab driver's license number, which shall be clearly identified as a New York city department of consumer affairs license number; (ii) the pedicab business name, address, telephone number and pedicab business license number, which shall be clearly identified as a New York city department of consumer affairs license number; (iii) the rate per ride as indicated on the exterior of the pedicab; (iv) the date; (v) the total number of minutes and/or fraction of a minute of the pedicab ride; and (vi) the total charge of the pedicab ride. Proposed Int. No. 597-A would require DCA to distribute the card to every licensed pedicab driver. Further, it would require that pedicab drivers distribute the card to

their passengers before the passengers enter the pedicab with the following information filled out by the driver: (i) the driver's name and pedicab driver's license number; (ii) the pedicab business name, address, telephone number and pedicab business license number; and (iii) the rate per ride as indicated on the exterior of the pedicab. At the conclusion of the pedicab ride, Proposed Int. No. 597-A would require the driver to enter the following information on the card before returning the card to the passenger: (i) the date; (ii) the total number of minutes and/or fraction of a minute of the pedicab ride; and (iii) the total charge of the pedicab ride.

Proposed Int. No. 597-A

By Council Members Garodnick, James, Koppell, Mendez, Williams, Comrie, Koslowitz, Dromm, Rodriguez and Lappin

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to pedicab fares and receipts.

Be it enacted by the Council as follows:

Section 1. Paragraph 12 of subdivision a of section 20-254 of subchapter nine of chapter two of title 20 of the administrative code of the city of New York, as added by local law number 19 for the year 2007, is amended to read as follows:

12. a timer, of a type approved by the commissioner, affixed within clear view of passengers[, if the rate charged is based on period of use];

§ 2. Paragraphs 13 and 14 of subdivision a of section 20-254 of subchapter nine of chapter two of title 20 of the administrative code of the city of New York, as added by local law number 19 for the year 2007, are amended to read as follows:

13. a sign attached to the interior of the pedicab within view of passengers indicating the name and telephone number of the pedicab business, the pedicab's registration number and a telephone number that can be used to direct consumer complaints about such pedicab to the department; [and]

14. a sign conspicuously posted on both sides of the exterior of the pedicab indicating in letters and numbers at least two inches high the dollar amount to be charged [for the use of the pedicab or the basis for calculating such amount.] per minute per ride, and in letters and numbers at least one half of an inch high that: (i) no additional fees may be charged and (ii) drivers must give passengers a pedicab information card; and

§ 3. Subdivision a of section 20-254 of subchapter nine of chapter two of title 20 of the administrative code of the city of New York, as added by local law number 19 for the year 2007, is amended by adding new paragraph 15 to read as follows:

15. a sign affixed to the rear of the bicycle seat of the pedicab indicating in letters and numbers at least two inches high the dollar amount to be charged per minute per ride.

§ 4. Section 20-260 of subchapter nine of chapter two of title 20 of the administrative code of the city of New York, as added by local law number 19 for the year 2007, is amended to read as follows:

20-260. Rates of pedicabs. a. [The basis for calculating the amount of the charge for the use of a pedicab shall be displayed on the pedicab at all times] Rates for pedicab rides shall be based on time calculated per minute per ride. Each pedicab driver shall make such calculation using the timer affixed to the pedicab pursuant to paragraph 12 of subdivision a of section 20-254 of this subchapter. Each pedicab driver shall activate such timer when all passengers are seated and the pedicab ride commences, and shall stop the timer when the pedicab has reached its destination and the pedicab is at a full stop.

1. It shall be unlawful for a pedicab driver to charge any added fee, including fees for additional passengers.

2. Each minute shall be charged at the same rate.

3. Rates shall be displayed on the exterior of the pedicab and the rear of the bike seat on the pedicab pursuant to paragraphs 14 and 15 of subdivision a of section 20-254 of this subchapter at all times.

b. It shall be unlawful for a pedicab driver to charge a passenger a higher rate than the [more than the amount or] rate displayed on the pedicab pursuant to paragraphs 14 and 15 of

subdivision a of section 20-254 of this subchapter.

c. Pedicab Information Card.[The pedicab driver shall provide passengers with a receipt listing the amount of the charge for the use of the pedicab, the license number of the pedicab business and a telephone number of such business to which complaints by consumers shall be directed, the pedicab driver's license number and the telephone number at the department where complaints by consumers can be reported.]1. The department shall create a pedicab information card in a size and style to be determined by the commissioner that states in substance: (i) all pedicabs shall display a sign disclosing the price to be charged per minute per ride on the exterior of the pedicab and the rear of the bike seat of the pedicab; (ii) drivers are not permitted to charge tax; (iii) gratuity is not required; (iv) it shall be unlawful for a pedicab driver to charge any added fee, including fees for additional passengers; (v) passengers may call 311 if they have a complaint regarding a pedicab driver or business; and (vi) such additional information as required by the commissioner. Each such document shall include an area where each pedicab driver shall insert: (i) his or her name and pedicab driver's license number, which shall be clearly identified as a New York city department of consumer affairs license number; (ii) the pedicab business name, address, telephone number and pedicab business license number, which shall be clearly identified as a New York city department of consumer affairs license number; (iii) the rate per ride as indicated on the exterior of the pedicab and the rear of the bike seat of the pedicab pursuant to paragraphs 14 and 15 of subdivision a of section 20-254 of this subchapter; (iv) the date; (v) the total number of minutes and/or fraction of a minute of the pedicab ride; and (vi) the total charge of the pedicab ride.

2. Such pedicab information card shall be distributed to every pedicab driver licensed pursuant to section 20-257 of this subchapter by the department in a manner to be determined by

the commissioner.

3. Before a passenger enters a pedicab, the driver shall provide such passenger with the information card required by paragraph one of this subdivision with the following information inserted by the driver: (i) the driver's name and pedicab driver's license number; (ii) the pedicab business name, address, telephone number and pedicab business license number; and (iii) the rate per ride as indicated on the exterior of the pedicab and the rear of the bike seat of the pedicab pursuant to paragraphs 14 and 15 of subdivision a of section 20-254 of this subchapter. At the conclusion of the pedicab ride, the driver shall enter the following information on the information card: (i) the date; (ii) the total number of minutes and/or fraction of a minute of the pedicab ride; and (iii) the total charge of the pedicab ride. The driver shall then return the information card to the passenger.

§ 5. This local law shall take effect one hundred and twenty days after its enactment into law; provided, however, that the commissioner shall 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.

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