

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1989**

No. 88

Introduced by Council Member Eisland (by the request of the Mayor); also Council Members Horwitz, Berman, Messinger and Albanese

A LOCAL LAW

To amend the administrative code of the the city of New York, in relation to penalties and taxicab owner liability for violations of chapter five of title nineteen thereof and enforcement by the Taxi and Limousine Commission.

Be it enacted by the Council as follows:

Section 1. Subdivisions c and d of section 19-506 of the administrative code of the city of New York, subdivisions b and c as amended by local law number seventy-six for the year nineteen hundred eighty-six, are amended to read as follows:

c. No person shall operate or permit to be operated any vehicle bearing the words "hack," "taxi," "taxicab," "cab," "coach," "for hire vehicle," "livery," "limousine," or other designation of similar import unless the vehicle is licensed as a taxicab, [or] coach or for-hire vehicle, as appropriate, and the driver has an appropriate driver's license under this chapter, 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," [a handicapped transportation service] or other similar designation unless [the vehicle or vehicles used therefor are so licensed] 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 wheelchair accessible van service or other similar designation unless a wheelchair accessible van license is in effect for each vehicle used therefor.

d. Any person, [not having been duly licensed hereunder as a driver or whose] other than a person holding a driver's license [has been] issued pursuant to section 19-504 and a New York state class one, two, three or four license, neither of which is revoked or suspended, [and] who [during the time of such revocation or suspension] drives or operates for hire a licensed vehicle in the city, 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 dollars nor more than five hundred dollars or imprisonment for a term not exceeding thirty days, or both such fine and imprisonment.

§2. Section 19-507 of such code is amended to read as follows:

§19-507 Mandatory penalties. a. The commission shall fine any driver, or suspend or revoke the driver's license of any driver, as provided in subdivision b [hereof] of this section, who shall have been found in violation of any of the following:

1. No driver of a taxicab shall seek to ascertain, without justifiable grounds, the destination of a passenger before such passenger shall be seated in [a] the vehicle [hereunder]

2. No driver of a taxicab shall refuse, without justifiable grounds, to take any passenger or prospective passenger to any destination within the city.

3. No driver of a vehicle the fares of which are set by the commission shall charge or attempt to charge a [rate of] fare above the [approved rates except for a trip beyond the city limits] fare set by the commission.

4. No driver of a for-hire vehicle shall accept passengers unless the passengers have engaged the use of the for-hire vehicle on the basis of telephone contract or prearrangement.

b. 1. Any driver who has been found to have violated a provision of paragraph one, two, [or] three or four of subdivision a [hereof] of this section, or any combination thereof, shall be fined not less than [one] two hundred dollars nor more than [two] three hundred fifty dollars for the first offense. Any driver who has been found in violation of any of the provisions of such paragraphs, or any combination thereof, for a second time within a twenty-four month period shall be fined not less than [two] three hundred fifty dollars nor more than five hundred dollars, and the commission may suspend the driver's license of such driver for a period not to exceed thirty days. The commission shall revoke the driver's license of any driver who has been found to have violated any of the provisions of paragraph one, two, [or] three or four of such subdivision [a hereof], or any combination thereof, three or more times within a [twenty-four] thirty-six month period.

2. Notwithstanding the provisions of paragraph one of this subdivision, the commission shall revoke the driver's license of any person found to have violated paragraph three of subdivision a of this section by charging or attempting to charge a fare of ten dollars or more above the approved rate of fare for taxicabs.

c. The commission shall not issue any license under this chapter to any person who has had his or her driver's license revoked pursuant to subdivision b [hereof] of this section prior to a period of one year from the date of such revocation.

d. [Nothing contained herein shall prevent the commission from issuing appropriate regulations establishing justifiable grounds for engaging in the conduct prohibited by paragraphs one and two of subdivision a of this section] 1. Each owner shall make a reasonable good faith effort, by a driver education program or other affirmative measures, to deter the commission of violations of paragraphs one, two and three of subdivision a of this section by drivers of taxicabs for which such owner holds a vehicle license. A finding that a driver has committed a violation of any such paragraph shall create a rebuttable presumption that the owner holding the vehicle license for the taxicab in which such violation was committed has failed to make a reasonable good faith effort to deter the commission of such violation. In any proceeding for a violation of this paragraph, it is an affirmative defense that the owner made a reasonable good faith effort, by a driver education program or other affirmative measures, to deter the commission of violations of paragraphs one, two and three of subdivision a of this section. The commission shall advise an owner in writing of his or her potential liability pursuant to this subdivision upon a finding that a violation of such paragraph was committed in a taxicab for which such owner holds a vehicle license.

2. If the owner holding a vehicle license for a taxicab or taxicabs in which a driver or drivers have been found to have committed violations of paragraphs one, two or three of subdivision a of this section, or any combination thereof, is found not to have made a reasonable good faith effort to deter such violation, the owner shall be liable for a violation of paragraph one of this subdivision as follows:

(i) for the second violation of paragraphs one, two or three of subdivision a of this section, or any combination thereof, committed in a taxicab or taxicabs for which the owner holds a vehicle

license or licenses, the commission shall fine the owner two hundred dollars;

(ii) for the third violation of paragraphs one, two or three of subdivision a of this section, or any combination thereof, committed in a taxicab or taxicabs for which the owner holds a vehicle license or licenses, the commission shall fine the owner not less than two hundred dollars nor more than three hundred fifty dollars;

(iii) for the fourth and each subsequent violation of paragraphs one, two or three of subdivision a of this section, or any combination thereof, committed in a taxicab or taxicabs for which the owner holds a vehicle license or licenses, the commission shall fine the owner not less than three hundred fifty nor more than five hundred dollars;

(iv) for the fifth and each subsequent violation of paragraphs one, two or three of subdivision a of this section, or any combination thereof, committed in a taxicab or taxicabs for which the owner holds a vehicle license or licenses, the commission shall suspend the vehicle license of the taxicab used in the commission of the most recent violation for a period not to exceed sixty days.

For purposes of this paragraph, the obligation to have made a "reasonable good faith effort" shall be met if the owner, upon the hiring of each new driver and for all drivers, shall, at least once annually, distribute a copy of applicable commission rules to each driver and obtains a written receipt therefore. The commission shall supply owners with a copy of all such applicable rules. In addition, such rules shall be conspicuously posted by the owner at the owner's place of business so that they are readily visible to all drivers.

3. The commission shall promulgate rules and regulations setting forth the procedure for an administrative adjudication of violations of paragraph one of this subdivision, which shall include provision for notice and a hearing.

e. The term "without justifiable ground" used in paragraphs one[,] and two [and three] of subdivision a [hereof] of this section shall [be defined as] mean that standard of behavior which fails to conform to that of a reasonable and prudent person acting in [conformity] compliance with any regulations promulgated by the commission [pursuant to subdivision d hereof].

f. The commission may suspend or revoke the license of any person whom it determines has obtained a license by fraud or false representation, or willful misstatement or omission of a material fact.

§3. Section 19-516 of such code, as amended by local law number seventy-six for the year nineteen hundred eighty-six, is amended to read as follows:

§19-516 Acceptance of passengers by for-hire vehicles. 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 [, provided, however, that after three determinations by the commission that a for-hire vehicle driver has picked up passengers while cruising or not by prearrangement, the for-hire vehicle driver's license may be revoked].

§4. This local law shall take effect on the ninetieth day after its enactment into law and apply to any violations occurring on or after such date.

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 November 2, 1989, and approved by the Mayor on November 17, 1989.

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 88 of 1989, Council Int. No. 1087-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on November 2, 1989; 28 for, 0 against

Was approved by the Mayor on November 17, 1989.

Was returned to the City Clerk on November 17, 1989.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel