

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

No. 90

INT. No. 957-A

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

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the seizure and forfeiture of vehicles subject to the jurisdiction of the taxi and limousine commission which are operated without the appropriate licenses issued by such commission.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The council finds that vehicles operating as taxicabs, for-hire vehicles, coaches and wheelchair accessible vans without an appropriate license issued by the taxi and limousine commission are a threat to the health, safety and well-being of their passengers and the general public. Many of the vehicles operated in disregard of the commission's regulatory authority lack adequate insurance coverage, are mechanically unsafe and are not driven by responsible drivers. Most persons charged with operating a vehicle without an appropriate license issued by the taxi and limousine commission simply ignore summonses they receive and continue to operate vehicles without the appropriate license having been duly issued. Thus, the overwhelming majority of summonses issued for operating without a license have resulted in unsatisfied default judgments.

Therefore, in order that the taxi and limousine commission may effectively enforce the vehicle licensing requirements of chapter five of title nineteen of the administrative code of the city of New York, the council hereby provides that the commission shall have the power to seize and subject to forfeiture vehicles operating as taxicabs, for-hire vehicles, coaches or wheelchair accessible vans without the appropriate license issued by the commission. These more stringent enforcement measures are clearly necessary to reduce the large number of illegally operating vehicles, compel compliance with the commission's licensing and other requirements, and to assure that the public is served by vehicles meeting the legal requirements for service, safety and insurance.

§2. Subdivision i of section 19-502 of the administrative code of the city of New York is amended to read as follows:

i. ["Owner"] *Except as is otherwise provided in subdivision f of section 19-506 "owner"* means any person, firm, partnership, corporation or association owning and operating a licensed vehicle or vehicles and shall include a purchaser under a reserve title contract, conditional sales agreement or vendors lien agreement, and a lessee of any such vehicle or vehicles under a written lease or similar contract approved by the commission.

§3. Section 19-506 of such code is amended by adding a new subdivision f to read as follows:

f. (1) *Any officer or employee of the commission designated by the chairperson of the*

commission and any police officer may seize any vehicle which he or she has probable cause to believe is operated or offered to be operated without an appropriate vehicle license for such operation in violation of subdivision b or c of this section. Therefore, either the commission or an administrative tribunal of the commission at a proceeding commenced in accordance with subdivision e of this section, or the criminal court, as provided in this section, shall determine whether a vehicle seized pursuant to this subdivision was operated or offered to be operated in violation of either such subdivision. The commission shall have the power to promulgate regulations concerning the seizure and release of vehicles and may provide in such regulations for reasonable fees for the removal and storage of such vehicles. Unless the charge of violating subdivision b or c of this section is dismissed, no vehicle seized pursuant to this subdivision shall be released until all fees for removal and storage and the applicable fine or civil penalty have been paid or a bond has been posted in a form and amount satisfactory to the commission, except as is otherwise provided for vehicles subject to forfeiture pursuant to paragraph two of this subdivision.

(2) In addition to any other penalties provided in this section, if the owner is convicted in the criminal court of, or found liable in accordance with subdivision e of this section for, a violation of either subdivision b or c of this section three or more times, and all of such violations were committed on or after the effective date of this section and within a thirty-six month period, the interest of such owner in any vehicle used in the commission of any such third or subsequent violation shall be subject to forfeiture upon notice and judicial determination. Notice of the institution of the forfeiture proceeding shall be in accordance with the provisions of the civil practice law and rules.

(3) Except as hereinafter provided, the city agency having custody of a vehicle after judicial determination of forfeiture, shall, no sooner than thirty days after such determination and upon a notice of at least five days, sell such forfeited vehicle at public sale. Any person, other than an owner whose interest is forfeited pursuant to this section, who establishes a right of ownership in a vehicle, including a part ownership or security interest, shall be entitled to delivery of the vehicle if such person;

(A) redeems the ownership interest which was subject to forfeiture by payment to the city of the value thereof;

(B) pays the reasonable expenses of the safekeeping of the vehicle between the time of seizure and such redemption; and

(C) either (i) asserts a claim in the forfeiture proceeding, or (ii) submits a claim in writing to the commission within thirty days after judicial determination of forfeiture.

(4) Notwithstanding the provisions of paragraph three of this subdivision, establishment of a right of ownership shall not entitle a person to delivery of a vehicle if the city establishes in the forfeiture proceeding or in a separate administrative adjudication of a claim asserted pursuant to subparagraph C of paragraph three of this subdivision that the violations of subdivision b or c of this section upon which the forfeiture is predicated were expressly or impliedly permitted by such person. The commission shall promulgate rules and regulations setting forth the procedure for such an administrative adjudication, which shall include provision for a hearing.

(5) For purposes of this subdivision, the term "owner" shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eighty-eight of the vehicle and traffic law.

§4. This local law shall take effect ninety days after it shall have been enacted into 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 November 2, 1989, and approved by the Mayor on November 22, 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 90 of 1989, Council Int. No. 957-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 22, 1989.

Was returned to the City Clerk on November 22, 1989.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel