Committee on Finance

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###### **THE NEW YORK CITY COUNCIL**

Latonia McKinney, Director, Finance Division

**COMMITTEE ON FINANCE**

Hon. Daniel Dromm, Chair

##### December 9, 2021

**Proposed Int. No. 1520-A:** By Council Member Dromm

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of finance to report on the parking violations bureau

**Administrative Code** Adds §19-216 to the Administrative Code

1. **Introduction**

On December 9, 2021, the Committee on Finance (Committee), chaired by Council Member Daniel Dromm, will hold a second hearing on Proposed Introduction (Int.) Number (No.) 1520-A, titled A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of finance to report on the parking violations bureau. This is the second hearing on this bill, which was subsequently amended after introduction. At the first hearing on April 29, 2019, which was jointly held with the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, and the Committee on Government Operations, chaired by Fernando Cabrera,the Committee heard testimony from representatives from the NYC Department of Finance (DOF), the New York City Sherriff, the NYC Department of Transportation (DOT), advocates, and other key stakeholders interested in the oversight of the DOF Parking Violations Bureau (PVB), and a package of legislation that proposed to affect the operations of the PVB, including the prior version of Int. 1520-A.

1. **Background**

Traffic Enforcement Agents (TEA) and officers of the New York Police Department (NYPD), as well as representatives of several other City agencies and other entities,[[1]](#footnote-2) issue parking tickets in the form of affirmed notices of violation to vehicles parked in violation of the Department of Transportation (DOT) traffic rules and regulations.[[2]](#footnote-3) The PVB is responsible for collecting the fines for these parking violations and, when owners dispute the violations, adjudicating such disputes.[[3]](#footnote-4)

The PVB is diffuse in form within DOF, with 106 per diem staff and 193 full-time equivalent staff in Fiscal 2019 assigned to several units working together to execute several core PVB functions.[[4]](#footnote-5) These functions are: “to hear and determine, charges of parking violations,”[[5]](#footnote-6) “to enter judgments and enforce them,”[[6]](#footnote-7) “to compile and maintain complete and accurate records relating to all charges and dispositions,”[[7]](#footnote-8) and “to remit to the…appropriate finance officer…all monetary penalties or fees received.”[[8]](#footnote-9) State and local laws require the DOF Commissioner to appoint a PVB Director[[9]](#footnote-10) and hearing examiners who have been admitted to the practice of law in New York for at least five years.[[10]](#footnote-11) In addition, the Commissioner must appoint senior hearing examiners who preside at hearings, supervise, and administer the PVB, and serve on an appeals board.[[11]](#footnote-12) Such appeals board is required to be within the PVB, consisting of three or more senior hearing examiners, and is authorized to hear appeals from judgments of hearing officers and to reverse or modify any judgement appealed for error of fact or law.[[12]](#footnote-13) The adjudications are currently performed by 106 Administrative Law Judges (ALJs) who receive a per-diem wage and are *not* City employees so as preserve their independent judgement.[[13]](#footnote-14)

1. **Encounters with the PVB upon Receiving a Notice of Violation for a Parking Infraction**

There are several options for a respondent to plead guilty and pay the fine listed on the notice of violation. The respondent may use DOF’s “NYC Pay or Dispute” Mobile App[[14]](#footnote-15) or go online to <http://nyc.gov/citypay> to submit payment either by credit card, with a two percent convenience fee, or by eCheck/ACH without a fee.[[15]](#footnote-16) While it can take up to three weeks for a handwritten parking ticket or camera violation to appear in DOF’s Summons Tracking and Accounts Receivable System (STARS), the respondent may still make a payment via App or CityPay using the violation number.[[16]](#footnote-17) The respondent may also mail a personal check or money order.[[17]](#footnote-18) Finally, the respondent may pay in person, either at one of the five borough-based Finance Business Centers,[[18]](#footnote-19) or at participating 7-Eleven and CVS stores using PayNearMe, with a convenience fee of $2.99 (per payment).[[19]](#footnote-20)

There are likewise several options for a respondent to plead not guilty and request a hearing. The respondent may use the DOF “NYC Pay or Dispute” Mobile App[[20]](#footnote-21) or go online to <http://nyc.gov/disputeticket> to contest the ticket and upload evidence online, upon the review of which the ALJ’s decision will be emailed back to the email address supplied.[[21]](#footnote-22) The respondent may also contest the ticket and mail evidence, upon the review of which the ALJ’s decision will be mailed back.[[22]](#footnote-23) Finally, the respondent may visit any Finance Business Center for a walk-in hearing on a first-come, first-served basis between 8:30 am and 4:30 pm, Monday-Friday.[[23]](#footnote-24) The respondent may also send an authorized representative to contest the ticket, including a spouse, family member, friend, a registered ticket broker, counsel, or in limited circumstances, an employee.[[24]](#footnote-25) The identification requirements and the conduct regulations for such authorized representatives are spelled out in the New York City Rules.[[25]](#footnote-26)

If a respondent pleads not guilty and requests a hearing, an ALJ will conduct a hearing and write a decision and order that includes a finding of fact and conclusion of law after a review of all the evidence presented.[[26]](#footnote-27) The parking ticket is “prima facie evidence of the statements contained therein” have the effect of placing the burden of proof on petitioner, which is contrary to the rule in civil proceedings that the charge must be established by a preponderance of the evidence.[[27]](#footnote-28) ALJs have limited discretion and must sustain or dismiss the ticket, and are not vested with discretion to reduce the fine.[[28]](#footnote-29)

ALJs must dismiss a ticket if it is shown to be facially deficient because certain elements required by Vehicle and Traffic Law § 238(2) are missing, illegible, or mis-described.[[29]](#footnote-30)

There are several other complete defenses to a ticket. ALJs must dismiss if: the respondent died prior to or within 90 days of the issuance of the ticket; the respondent has proof that the vehicle was stolen prior to ticket issuance and before recovery of the car; if the respondent has proof that the vehicle was sold, gifted, or otherwise transferred the vehicle prior to ticket issuance; if duplicate tickets were issued on the same day, for the same violation, at the same location, within three hours of the first ticket, or where multiple tickets were issued for status violations (registration or inspection) if the repeat summons were issued on the same date as the first ticket.[[30]](#footnote-31)

There are additional defenses that are more fact intensive and which will require an ALJ to weigh the evidence, including: if the parking rules sign a respondent is cited for violating was missing, illegible, ambiguous, or wrongly stated; if the respondent’s vehicle suddenly became disabled and was ticketed for parking illegally and the respondent then removed it from the location expeditiously; or, in the case of a broken parking meter, a respondent may be able to prove that they attempted to purchase a parking meter receipt from the next nearest machine on the same block, or within the same municipal lot, and unsuccessfully tried to make the purchase with all methods of payment accepted by the machine.[[31]](#footnote-32)

If the ALJ sustains the violation, the respondent can appeal the decision to an appeals board within 30 days, during which time no penalties or fees for late payment are assessed.[[32]](#footnote-33) However, unless enforcement has been stayed by the appeals board, filing an appeal does not stay the enforcement of a judgment upon a sustained charge unless the appellant has posted a bond in the amount of such determination, at the time of, or before the service of such notice of appeal.[[33]](#footnote-34) The appeals panel shall consist of three or more hearing examiners, but in no event shall the hearing examiner from whose decision the appeal is taken be included in the panel determining said appeal.[[34]](#footnote-35) The appeals panel may review the case for errors of fact or law or jurisdictional defects in the summons and is bound by the record established at the hearing and shall only consider evidence which was not presented to the ALJ in the interests of justice and upon consent of the respondent.[[35]](#footnote-36) The appeals panel will make one of the following decisions: affirm (uphold) the original hearing decision; modify the original hearing decision; reverse the hearing decision; return the case for a completely new hearing; decide that there was no cognizable issue on which to base an appeal.[[36]](#footnote-37)

*Failure to Respond to a Notice of Violation or to Satisfy a Judgment of Guilt*

If a respondent fails to pay a parking ticket or plead not guilty, late penalties begin to accrue after 30 days: after 30 days, an additional $10 is added to the fine amount (however, payments of a base fine received no later than seven days after the DOF has sent a notice of the $10 additional penalty will be deemed payment in full of the violation); after 60 days, an additional $20 is added to the fine and first penalty; after 90 days, an additional $30 is added to the fine and both penalties.[[37]](#footnote-38) After about 100 days of non-response, the violation is entered into judgment and nine percent interest per year is added to the total amount due until the debt is paid.[[38]](#footnote-39) A hearing on a ticket in judgment once it is more than one year old requires a written application showing excusable neglect and a substantial defense to the charge.[[39]](#footnote-40)

In the case of any vehicle with an outstanding judgement or judgements for parking violations, including interest, totaling $350 or more, the DOF Sheriff and the City Marshall are authorized to immobilize or remove such vehicle to a tow pound.[[40]](#footnote-41) Booting, towing, and storage fees will be added to the amount owed. In Fiscal 2018, the City collected poundage revenues of $3.6 million and booting revenues of $14.7 million. If judgment debt remains unpaid despite booting, towing, and other collection efforts, the City can take additional enforcement actions, up to and including auctioning off the vehicle to satisfy the judgement.[[41]](#footnote-42)

If a respondent owes at least $350 in parking/camera judgment debt, the respondent may also go to a Finance Business Center and apply for a Parking Ticket Payment Plan to forestall Sheriff and Marshall enforcement actions.[[42]](#footnote-43) A down payment of 33 percent is required, followed by equal monthly installments, while towed vehicles can be redeemed by entering into a payment plan with a down payment tow or boot fees plus of 50 percent of the judgment amount.[[43]](#footnote-44) A payment plan will increase the total amount a respondent will owe because nine percent annual interest will continue to be added to the balance until the amount owed is completely paid off.

There are additional administrative consequences to having tickets in judgement. New York State will not register or renew a vehicle registration if a respondent has three or more outstanding tickets and/or camera violations in judgment within an 18-month period.[[44]](#footnote-45) Morever, if a respondent has had five or more outstanding parking tickets in judgment within a 12-month period, the respondent’s registration will be suspended.[[45]](#footnote-46) A respondent cannot obtain or renew a registration until the respondent resolves the tickets either by paying or having them dismissed at a hearing.[[46]](#footnote-47) Entering into a payment agreement will not satisfy the State registration requirement.

1. **Analysis of Proposed Int. No. 1520-A**

Section one of Proposed Int. No. 1520-A would require DOF to report on or before September 30 of each year on the operations of the PVB, including specific information about the number and types of parking violations and camera violations issued, the Bureau’s efficiency of collection of penalties, the adjudication efficiency and outcomes, and separate information about violations subject to any program of the department that allows for the payment of a reduced fine by waiving a right to a hearing.

Section two of Proposed Int. No. 1520-A would provide that the local law takes effect immediately.

Proposed Int. No. 1520-A

By Council Member Dromm

..Title

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of finance to report on the parking violations bureau

..Body

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-216 to read as follows:

§ 19-216 Reporting. a. Definitions. For purposes of this section, the following terms have the following meanings:

Hearing type. The term “hearing type” means the method by which a matter is heard by the parking violations bureau, which may be in person, by postal mail, or by internet or mobile application.

Violation code. The term “violation code” means the numerical reference assigned by the department to identify which local law, rule or regulation concerning the parking, stopping, or standing of motor vehicles, or the failure to comply with a local law, rule or regulation as documented by a photo violation-monitoring system, has been violated.

b. On or before September 30 of each year, the department shall submit to the mayor and speaker of the council and post on its website a report on the parking violations bureau. Such report shall include, but need not be limited to, the following information with respect to the previous fiscal year:

1. The number of parking violations and camera violations issued, disaggregated by violation code and, for the five license plate types that received the most parking violations and camera violations during the previous fiscal year, by license plate type, as well as the combined results for all other license plate types;

2. The total dollar amount of fines issued as a result of such issued parking violations and camera violations, disaggregated by violation code and, for the five license plate types that received the most parking violations and camera violations during the previous fiscal year, by license plate type, as well as the combined results for all other license plate types;

3. The number of parking violation and camera violation fines paid within 30 days, paid after more than 30 days but within 60 days, paid after more than 60 days but within 90 days, and unpaid within 90 days, of a fine for such violation being issued, disaggregated by license plate type for the five license plate types that received the most parking violations and camera violations during the previous fiscal year as well as the combined results for all other license plate types;

4. The total dollar amount of payments the department collected for parking violations and camera violations, disaggregated by violation code and, for the five license plate types that received the most parking violations and camera violations during the previous fiscal year, by license plate type, as well as the combined results for all other license plate types, and further disaggregated by base fine, penalty, and interest;

5. The number of hearings held for the adjudication of one or more parking violations, camera violations, or both, disaggregated by hearing type;

6. The average number of days between the date a person who pled not guilty to a parking violation or a camera violation and requested an in-person hearing and the date of such hearing;

7. The average number of days between the date of a hearing and the date a decision on such hearing is issued, disaggregated by hearing type;

8. The number of parking violations and camera violations and the total dollar amount of fines that were dismissed after a hearing, disaggregated by hearing type and by violation code;

9. The number of appeals filed challenging the result of a parking violation or camera violation hearing, disaggregated by violation code for the ten violation codes that received the most parking violations and camera violations during the previous fiscal year as well as the combined results for all other violation codes, and further disaggregated by hearing type;

10. The number of parking violations and the total dollar amount of fines that were dismissed after an appeal had been filed, disaggregated by violation code for the ten violation codes that received the most parking violations and camera violations during the previous fiscal year as well as the combined results for all other violation codes, and further disaggregated by original hearing type; and

11. For any program of the department that allows for the payment of a reduced fine for parking violations by waiving a right to a hearing:

(a) The number of participants in each such program;

(b) The number of parking violations and camera violations issued to participants in each such program and the total dollar amount of fines imposed as a result of such parking violations, disaggregated by violation code for the ten violation codes that received the most parking violations and camera violations during the previous fiscal year as well as the combined results for all other violation codes;

(c) The total dollar amount of the reduction of fines issued for parking violations and camera violations attributed to each such program, disaggregated by violation code for the ten violation codes that received the most parking violations and camera violations during the previous fiscal year as well as the combined results for all other violation codes; and

(d) The total dollar amount of payments the department collected for parking violations and camera violations in each such program, disaggregated by violation code for the ten violation codes that received the most parking violations and camera violations during the previous fiscal year as well as the combined results for all other violation codes.

c. The report required by subdivision b of this section shall include a data dictionary for the violation codes in the report.

§ 2. This local law takes effect immediately.

NAB/RKC

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1. Pursuant to 19 RCNY §39-01, agents authorized to issue parking tickets also include members of the Fire Department; Department of Transportation; Department of Sanitation the Sheriff, the Under Sheriff, and Deputy Sheriffs of DOF's Office of the City Sheriff; Fraud and Associate Fraud Investigators at DOF; Department of Small Business Services; Business Integrity Commission; New York City Housing Authority Police; Port Authority of New York and New Jersey Police; Police of the Metropolitan Transportation Authority and its subsidiary authorities; United States Park Police; Department of Buildings Special Patrolmen; State Regional Park Police; Taxi and Limousine Commission; Waterfront Commission of New York Harbor; Department of Parks and Recreation; Department of Correction; Roosevelt Island Security Organization, Sea Gate Association Police; Snug Harbor Rangers with peace officer status; officers of the Co-op City Department of Public Safety; Amtrak Police Officers; Office of Court Administration Court Officers; Department of Health Police Officers; Health and Hospitals Corporation Police Officers; New York State Office of Mental Health Safety Officers; New York State Office of Mental Retardation and Developmental Disabilities Police Officers; Triborough Bridge and Tunnel Authority Police Officers; State University Maritime College Public Safety Officers; Department of Environmental Protection Police Officers; managers of the New York City Transit Authority; and Officers of the Federal Protective Service of the United States Department of Homeland Security. [↑](#footnote-ref-2)
2. New York City Charter §2903; 34 RCNY Ch. 4. [↑](#footnote-ref-3)
3. VEH. & TRAF. §240; Admin. Code §19-203(a). [↑](#footnote-ref-4)
4. Information provided by DOF to the Finance Committee. [↑](#footnote-ref-5)
5. VEH. & TRAF. §237(1). [↑](#footnote-ref-6)
6. VEH. & TRAF. §237(5). [↑](#footnote-ref-7)
7. VEH. & TRAF. §237(6). [↑](#footnote-ref-8)
8. VEH. & TRAF. §237(7). [↑](#footnote-ref-9)
9. Admin. Code §19-202(a). [↑](#footnote-ref-10)
10. Admin. Code §19-202(d). [↑](#footnote-ref-11)
11. Admin. Code §19-202(c). [↑](#footnote-ref-12)
12. Admin. Code §19-208. [↑](#footnote-ref-13)
13. VEH. & TRAF. §236(2)(d) (“[s]uch hearing examiners shall not be considered employees of the city in which the administrative tribunal has been established.”). [↑](#footnote-ref-14)
14. DOF: Pay or Dispute, <https://www1.nyc.gov/site/finance/vehicles/nyc-pay-or-dispute.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-15)
15. NYC CityPay: Parking and Camera Violations, <https://a836-citypay.nyc.gov/> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-16)
16. DOF: Parking Tickets & Camera Violations, Violation Number Search, [https://secure24.ipayment.com/
NYCPayments/nycbookmark\_1.htm](https://secure24.ipayment.com/NYCPayments/nycbookmark_1.htm) *(last accessed* Apr. 23, 2019); DOF: Got a Parking Ticket or Camera Violation?, <https://www1.nyc.gov/assets/finance/downloads/pdf/brochures/parking_brochure.pdf> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-17)
17. DOF: Payments, Pay by Mail, <https://www1.nyc.gov/site/finance/pay-now/pay.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-18)
18. DOF: Payments, Pay In-Person at a DOF Business Center, <https://www1.nyc.gov/site/finance/pay-now/pay.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-19)
19. DOF: Payments, NEW! Pay Parking Tickets in Cash at a 7-Eleven or CVS Near You, [https://www1.nyc.gov/site/
finance/pay-now/pay.page](https://www1.nyc.gov/site/finance/pay-now/pay.page) *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-20)
20. DOF: Pay or Dispute, <https://www1.nyc.gov/site/finance/vehicles/nyc-pay-or-dispute.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-21)
21. DOF: Dispute a Ticket Online, <https://www1.nyc.gov/site/finance/vehicles/dispute-web.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-22)
22. DOF: Request a Hearing-by-Mail, <https://www1.nyc.gov/site/finance/vehicles/dispute-mail.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-23)
23. DOF: Request an In-Person Hearing, <https://www1.nyc.gov/site/finance/vehicles/dispute-person.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-24)
24. DOF: Eligible Representative, <https://www1.nyc.gov/site/finance/vehicles/dispute-eligible-representatives.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-25)
25. 19 RCNY §39-09. [↑](#footnote-ref-26)
26. Admin Code §19-207(a). [↑](#footnote-ref-27)
27. *Gruen v. Parking Violation Bureau*, 58 A.D. 2d 48 (1977). [↑](#footnote-ref-28)
28. Admin Code §19-207(a). Previously, the PVB offered a settlement program to all respondents appealing eligible violation types. Jo Craven McGinty and Ralph Blumenthal, *City Will Slash That Parking Fine, if You Ask*, N.Y. Times (Jan. 1, 2009). However, this settlement program ended on January 31, 2012. 19 RCNY §39-20(a). [↑](#footnote-ref-29)
29. *In re Wheels v. Parking Violations Bureau*, 607 N.E.2d 806 (N.Y. 1992). These elements are: (1) plate description; (2) plate type as shown by the registration of the vehicle; (3) registration expiration date; (4) make or model and body type of vehicle; (5) a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; (6) information as to the days and hours the applicable rule or provision of this chapter is in effect, unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are everyday and/or twenty-four hours a day; (7) the meter number for a meter violation, where appropriate; and (8) the date, time and particular place of occurrence of the charged violation. [↑](#footnote-ref-30)
30. DOF: Common Reasons for Disputing a Ticket, <https://www1.nyc.gov/site/finance/vehicles/common-reasons.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-31)
31. *Id.* [↑](#footnote-ref-32)
32. Admin. Code §19-207(a). [↑](#footnote-ref-33)
33. 19 RCNY §39-12(a)(5). [↑](#footnote-ref-34)
34. VEH. & TRAF. §242; [↑](#footnote-ref-35)
35. 19 RCNY §39-12(a)(2). [↑](#footnote-ref-36)
36. DOF: Appeal a Hearing Decision, <https://www1.nyc.gov/site/finance/vehicles/dispute-a-ticket.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-37)
37. Admin. Code §19-211(a); 19 RCNY §39-07. While DOF rules provide for granting ALJs discretion to abate late penalties upon a “showing of good cause, made by the respondent under oath or on affirmation,” if it unclear if the PVB has established the necessary procedures to guide such exercise of discretion. 19 RCNY §39-07(b). [↑](#footnote-ref-38)
38. DOF: Tickets in Judgement, <https://www1.nyc.gov/site/finance/vehicles/services-tickets-in-judgment.page> *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-39)
39. 19 RCNY §39-10(d)(1). [↑](#footnote-ref-40)
40. Admin. Code §19-212; [↑](#footnote-ref-41)
41. New York CPLR §5233. [↑](#footnote-ref-42)
42. DOF: Vehicle Payment Plans, <https://www1.nyc.gov/site/finance/vehicles/services-payment-plans.page> *(last accessed* Apr. 23, 2019); Parking/Camera Violations Payment Plan Request Form , Section III – Payment Plan Eligibility and Criteria (Rev. July 12. 2012), [https://www1.nyc.gov/assets/finance/downloads/pdf/
payment\_operations/pv\_payment\_plan\_request.pdf](https://www1.nyc.gov/assets/finance/downloads/pdf/payment_operations/pv_payment_plan_request.pdf) *(last accessed* Apr. 23, 2019). [↑](#footnote-ref-43)
43. *Id*. [↑](#footnote-ref-44)
44. VEH. & TRAF. §401(5-a). [↑](#footnote-ref-45)
45. VEH. & TRAF. §510(4-c). [↑](#footnote-ref-46)
46. VEH. & TRAF. §401(5-a); VEH. & TRAF. §510(4-c). [↑](#footnote-ref-47)