

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2015**

No. 56

Introduced by Council Members Johnson, Rodriguez, Ferreras, Lander, Rose, Levin, Van Bramer, Menchaca, Arroyo, Garodnick, Chin, Rosenthal, Barron, Kallos and Lancman.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to side guards.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 6 of the administrative code of the city of New York is amended by adding a new section 6-141 to read as follows:

§ 6-141 Side guards in the city fleet. a. Definitions. For the purposes of this section:

Department. The term “department” means the department of citywide administrative services.

Large vehicle. The term “large vehicle” means a motor vehicle with a manufacturer’s gross vehicle weight rating exceeding 10,000 pounds. “Large vehicle” does not include street sweepers, fire engines, car carriers, off road construction vehicles, or any specialized vehicles or vehicle types on which side guard installation is deemed impractical by the department pursuant to subdivision c of this section.

Side guard. The term “side guard” means a device fit to the side of a large vehicle designed to prevent pedestrians and bicyclists from falling into the exposed space between the front axle and the rear axle of such vehicles. Except where otherwise authorized by rule of the department, side guards: shall allow for a maximum 13.8 inch ground clearance, maximum 13.8

inch top clearance up to four feet in height, and a minimum 440 pound impact strength; must achieve a smooth and continuous longitudinal (forward to backward) impact surface flush with the vehicle sidewall; may include rail style guards, provided that such rails be no less than four inches tall and no more than 11.8 inches apart; and may incorporate other vehicle features such as tool boxes and ladders.

b. Side guards. No later than January 1, 2024, all large vehicles in the city fleet shall be equipped with side guards.

c. The department shall have the authority to promulgate any rules necessary to administer the provisions of this section, including but not limited to rules establishing side guard specifications that depart from the default specifications set forth in subdivision a of this section when such departure is deemed necessary by the department, as well as rules governing when the installation of side guards on certain city vehicles is impractical and will not be required. The department shall be authorized to inspect side guards and side guard specifications for compliance with the requirements of this section.

§ 2. Section 16-509 of the administrative code of the city of New York, as amended by local law number 145 for the year 2013, is amended to add a new subdivision f to read as follows:

f. On or after January 1, 2024, the commission may refuse to issue a license or registration to an applicant that has failed to demonstrate to the satisfaction of the commission that such applicant will at all times meet the requirements of section 16-526 of the code, or any rule promulgated pursuant thereto, in the performance of such license or registration.

§ 3. Subdivision a of section 16-513 of the administrative code of the city of New York, as amended by local law number 145 for the year 2013, is amended to read as follows:

a. In addition to the penalties provided in section 16-515 of this chapter, the commission may, after due notice and opportunity to be heard, revoke or suspend a license or registration issued pursuant to the provisions of this chapter when the registrant or licensee and/or its principals, employees and/or agents: (i) have been found to be in violation of this chapter or any rules promulgated pursuant thereto; (ii) have been found by a court or administrative tribunal of competent jurisdiction to have violated: (A) any provision of section 16-119 of this code, or any rule promulgated pursuant thereto, relating to illegal dumping, (B) any provision of section 16-120.1 of this code, or any rule promulgated pursuant thereto, relating to the disposal of regulated medical waste and other medical waste or (C) any provision of section 16-117.1 of this code, or any rule promulgated pursuant thereto, relating to the transportation and disposal of waste containing asbestos; (iii) has repeatedly failed to obey lawful orders of any person authorized by section 16-517 of this chapter to enforce the provisions hereof; (iv) has failed to pay, within the time specified by a court, the department of consumer affairs or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (v) has been found in persistent or substantial violation of any rule promulgated by the commission pursuant to section 16-306 of this code or by the commissioner of consumer affairs pursuant to section 16-306 or former subchapter eighteen of title twenty of this code; (vi) has been found in persistent or substantial violation of any city, state, or federal law, rule or regulation regarding the handling of trade waste, or any laws prohibiting deceptive, unfair, or unconscionable trade practices; (vii) whenever, in relation to an investigation conducted pursuant to this chapter, the commission determines, after consideration of the factors set forth in subdivision a of section 16-509 of this code, that the licensee or registrant as a trade waste broker lacks good character, honesty and integrity; (viii) whenever there has been any false statement or

any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of such license or registration was based; (ix) whenever the licensee or registrant has failed to notify the commission as required by subdivision b of section 16-507 or subdivision c of section 16-508 of this chapter of any change in the ownership interest of the business or other material change in the information required on the application for such license or registration, or of the arrest or criminal conviction of such licensee or registrant or any of his or her principals, employees and/or agents of which the licensee had knowledge or should have known; [or] (x) whenever the licensee or registrant has been found by the commission or a court or administrative tribunal of competent jurisdiction to be in violation of the provisions of section 24-163.11 of the code, or any rule promulgated pursuant thereto; *or (xi) whenever the licensee or registrant has been found by the commission or a court or administrative tribunal of competent jurisdiction to be in violation of the provisions of section 16-526 of the code, or any rule promulgated pursuant thereto.*

§ 4. Chapter 1 of title 16-A of the administrative code of the city of New York is amended by adding a new section 16-526 to read as follows:

§ 16-526 Side guards. a. Definitions. For the purposes of this section:

Side guard. The term "side guard" means a device fit to the side of a trade waste hauling vehicle designed to prevent pedestrians and bicyclists from falling into the exposed space between the front axle and the rear axle of such vehicles and with such additional specifications as may be established by the commission pursuant to paragraph 3 of subdivision c of this section. Except where otherwise authorized by rule of the commission, side guards: shall allow for a maximum 13.8 inch ground clearance, maximum 13.8 inch top clearance up to four feet in height, and a minimum 440 pound impact strength; must achieve a smooth and continuous longitudinal

(forward to backward) impact surface flush with the vehicle sidewall; may include rail style guards, provided such rails be no less than four inches tall and no more than 11.8 inches apart; and may incorporate other vehicle features such as tool boxes and ladders.

Trade waste hauling vehicle. The term "trade waste hauling vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating exceeding 10,000 pounds that is owned or operated by an entity that is required to be licensed or registered by the commission pursuant to section 16-505 of the code and that is operated in New York city for collection or removal of trade waste. "Trade waste hauling vehicle" does not include any specialized vehicle or vehicle type on which side guard installation is deemed impractical by the commission pursuant to subdivision c of this section.

b. Side guards. No later than January 1, 2024, all trade waste hauling vehicles shall be equipped with side guards.

c. Enforcement. 1. Any owner or operator of a trade waste hauling vehicle that violates any provision of this section shall be liable for a civil penalty of ten thousand dollars per vehicle that is in violation, returnable to the office of administrative trials and hearings. Each notice of violation shall contain an order of the chair of the commission directing the respondent to correct the condition constituting the violation and to file with the commission electronically, or in such other manner as the commission shall authorize, a certification that the condition has been corrected within thirty days from the date of the order. In addition to such civil penalty, a separate additional penalty may be imposed of not more than five hundred dollars for each day that the violation is not corrected beyond thirty days from such order.

2. For the purposes of this section, if the office of administrative trials and hearings finds that a certification of correction filed pursuant to this subdivision contained material false

statements relating to the correction of a violation, such certification of correction shall be null and void, in addition to or as an alternative to any other penalties provided by law. It shall be an affirmative defense that the respondent neither knew nor should have known that such statements were false.

3. The commission shall have the authority to promulgate rules requiring the installation of side guards that are to be fit to the side of any trade waste hauling vehicle, and may establish rules establishing side guard specifications that depart from the default specifications outlined in subdivision a of this section when such departure is deemed necessary by the commission. The commission may further promulgate any rules necessary to enforce the provisions of this section, including but not limited to establishing procedures for owners and operators of trade waste hauling vehicles to demonstrate compliance with the requirements of this section.

§ 5. This local law takes effect immediately.

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 May 27, 2015 and approved by the Mayor on June 16, 2015.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 56 of 2015, Council Int. No. 198-A of 2014) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.